

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **December 3, 2009**
Time: **6:30 P.M.**
Place: **Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802**

*Note: NO ENTRANCE TO BUILDING
FROM WASHINGTON STREET PARKING
LOT AFTER 4:30 PM.
Use Northeast parking lot via Lierman Ave.,
and enter building through Northeast
door.*

*If you require special accommodations please notify the Department of Planning & Zoning at
(217) 384-3708*

EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (July 30, 2009; October 15, 2009)
5. Continued Public Hearings

***Case 645-S-09** Petitioner: **Robert and Barbara Gerdes**

Request: **Authorize the construction and use of a “Restricted Landing Area” as a
Special Use in the AG-1 Agriculture Zoning District.**

Location: **An approximately 83 acre tract that is approximately the West Half of the
Southwest Quarter of Section 33 of Ayers Township and commonly known as the
farm at 52 CR 2700E, Broadlands.**

6. New Public Hearings
7. Staff Report
8. Other Business
 - A. Docketing of anticipated California Ridge Wind Farm
9. Audience Participation with respect to matters other than cases pending before the Board
10. Adjournment

*** Administrative Hearing. Cross Examination allowed.**

1 **MINUTES OF REGULAR MEETING**

2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

3 1776 E. Washington Street

4 Urbana, IL 61801

5 **DATE:** July 30, 2009

6 **PLACE:** Lyle Shields Meeting Room

7 1776 East Washington Street

8 Urbana, IL 61802

9 **TIME:** 7:00 p.m.

10 **MEMBERS PRESENT:** Doug Bluhm, Catherine Capel, Thomas Courson, Roger Miller, Melvin
11 Schroeder, Eric Thorsland, Paul Palmgren

12 **MEMBERS ABSENT :** None

13 **STAFF PRESENT :** John Hall, Leroy Holliday, J.R. Knight

14 **OTHERS PRESENT :** Jeanine French, Dennis French, Robert Miller, Paul Cole, Jed Gerdes, Barbara
15 Gerdes, Sharon Lacquet, Maria Lacquet, Robert Gerdes, Phyllis Benschneider,
16 Shawn Walker, Carl Smith, Brian Sullivan, John Fulton, Dwight Farber,
17 Sherry Schildt

18 **1. Call to Order**

19 The meeting was called to order at 7:04 p.m.

20 **2. Roll Call and Declaration of Quorum**

21 The roll was called and a quorum declared present.

22 **3. Correspondence**

23 None

24 **4. Approval of Minutes**

25 None

26 Mr. Bluhm requested a motion to rearrange the agenda and hear Case 647-V-09, Dennis and Jeanine French
27 prior to Case 645-S-09, Robert and Barbara Gerdes.

28 **Mr. Thorsland moved, seconded by Ms. Capel to rearrange the agenda and hear Case 647-V-09, Dennis
29 and Jeanine French prior to Case 645-S-09, Robert and Barbara Gerdes. The motion carried by voice
30 vote.**

31 **5. Continued Public Hearing**

DRAFT
SUBJECT TO APPROVAL

***Case 645-S-09 Petitioner: Robert and Barbara Gerdes Request: Authorize the construction and use of a "Residential Landing Area" as a Special Use in the AG-1, Agriculture Zoning District. Location: An approximately 83 acre tract that is approximately the West Half of the Southwest Quarter of Section 33 of Ayers Township and commonly known as the farm at 52 CR 2700E, Broadlands.**

Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands for those who would like to cross examine and each person will be called upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any questions. He said that those who desire to cross examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. He noted that no new testimony is to be given during the cross examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt from cross examination.

Mr. Hall distributed a Supplemental Memorandum dated July 24, 2009, to the Board for review. He said that Item #7.C(2) of the Summary of Evidence dated July 30, 2009, included as an attachment to the July 24, 2009, Supplemental Memorandum, should be revised to indicate the following: At the June 11, 2009, public hearing, attorney Paul Cole, representing several neighbors to the west, indicated that if it were possible to place a wind turbine on their property then his clients would like to have that opportunity.

Mr. Hall stated that the Supplemental Memorandum dated July 30, 2009, has some additional information for the Summary of Evidence. He said that the following text should be added as a new Item #8.O: Regarding the economic impact of the proposed RLA versus the impact of the anticipated wind farm: (1) The average annual per acre value of wind farm lease payments is approximately \$50 per acre assuming a gross density of one turbine per 70 acres and a lease value of \$3,500 based on information about the first wind turbine developments in McLean County in 2002; and (2) Jed Gerdes, son of the petitioners, testified at the June 11, 2009, public hearing that he raises good quality beans which require fungicides to be sprayed, and he can save five to ten dollars an acre by providing a landing strip closer to where he farms. When that savings is multiplied over thousands of acres it provides a strong financial incentive to have a landing strip; and (3) a wind farm would also have a positive effect on local property tax revenues that staff has not tried to estimate.

Mr. Hall stated that he does not know how accurate any of these numbers are but he does know that the information is based on the McLean County wind farms and the net density is based on the special use. He said that it is virtually impossible, unless someone violates their contract with the wind farm, to find out how much annual lease payments are and for that reason the Board may not decide to not include this item of evidence.

Mr. Hall reviewed the following which should be added as a new Item #10.D: Regarding RLA's previously authorized by Champaign County and RLA's still in operation: (1) The Special Use Permit requirements for RLA's were added to the *Zoning Ordinance* in Ordinance No. 320 (Zoning Case 642-AT-88) adopted on August 23, 1988. At that time there were many RLA's in operation in the County that became legal nonconforming uses at that time; and (2) Since the adoption of Ordinance No. 320, Champaign County has

7/30/09

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 authorized three SUP's for RLA's, as follows: (a) Case 672-S-88 was approved on for petitioner Stu Moment
2 in Section 7 of Sidney Township, however, this RLA does not appear to be in use anymore. The SUP is
3 attached to the land so an RLA could be reestablished on that location, presuming all the County zoning and
4 IDOT requirements could still be met; and (b) Case 724-S-90 was approved on for petitioner Dean Schwenk
5 in Section 12 of Pesotum Township, and appears to still be in use; and (c) Case 750-S-91 was approved for
6 petitioner Lowell Routh in Section 36 of St. Joseph Township, and appears to still be in use; and (3) Regarding
7 other known RLA's in Champaign County on August 23, 1988: (a) In Section 12 of Newcomb Township a
8 Mr. Furtney established an RLA on July 1, 1986, but did not obtain a Zoning Use Permit (ZUP) for the use. It
9 does not appear that this RLA is still in use; and (b) In Section 1 of Hensley Township, Riley McCulley
10 established an RLA on June 21, 1973, which was before the adoption of zoning and allowed it to be used as a
11 legal nonconforming use. This RLA appears to still be in use; and (c) In Section 12 of Mahomet Township,
12 Voyle Spence established an RLA on June 26, 1969, which was before the adoption of zoning and allowed it
13 to be used as a legal nonconforming use. However, this RLA was not in use as of August 23, 1988, and would
14 have to be reestablished by way of a SUP; and (d) In Section 28 of Hensley Township, Frank Andrew
15 established an RLA on January 18, 1949, which was before the adoption of zoning and allowed it to be used
16 as a legal nonconforming use. It does not appear that this RLA is still in use; and (e) In Section 28 of
17 Mahomet Township, William Herriot established an RLA on April 8, 1977, but did not obtain a ZUP for the
18 use. It does not appear that this RLA is still in use; and (f) In Section 31 of Somer Township, Roy Reifsteck
19 established an RLA on September 9, 1959, which was before the adoption of zoning and allowed it to be used
20 as a legal nonconforming use. It does not appear that this RLA is still in use; and (g) In Section 21 of Scott
21 Township, Mark Igoe established a Heliport/RLA on March 17, 1988, but did not obtain a ZUP for the use.
22 This RLA appears to still be in use; and (h) In Section 27 of Scott Township, John Litchfield established an
23 RLA on September 5, 1980, but did not obtain a ZUP for the use. This RLA appears to still be in use; and (i)
24 In Section 29 of Rantoul Township, Robert Schmidt established an RLA on July 21, 1983, but did not obtain a
25 ZUP for the use. However, a ZUP was obtained at a later date and the lot containing the RLA was the subject
26 of Zoning Case 528-V-05. This RLA appears to still be in use; and (j) In 6 of St. Joseph Township, Roscoe
27 Knott established an RLA on November 29, 1949, which was before the adoption of zoning and allowed it to
28 be used as a legal nonconforming use. It does not appear that this RLA is still in use; and (k) In Section 16 of
29 St. Joseph Township, Dale Busboom established an RLA on August 3, 1970, but did not obtain a ZUP for the
30 use. This RLA appears to still be in use; and (l) In Section 22 of Sidney Township, Harry Justus established an
31 RLA on August 23, 1966, which was before the adoption of zoning and allowed it to be used as a legal
32 nonconforming use. It does not appear that this RLA is still in use.

34
35 Mr. Hall stated that Dale Rust, Flight Safety Coordinator for IDOT Division of Aeronautics, has stated
36 that there have been several RLA's in this area that are no longer in use therefore staff added an item of
37 evidence which speaks about when RLA's were added to the *Zoning Ordinance*. He said that three
38 RLA's were approved since the amendment in 1988. He said that the item of evidence also indicates a
39 listing of known RLA's in Champaign County and whether they are in use or not. He said that special use
40 permits run with the land and as far as he knows none of the authorized RLA's has sunset conditions
41 placed upon them. He said that several of the RLA's do not appear to be in use but their special use
42 permit authorizations are still valid and could be reconstituted at any time.
43

1 Mr. Hall gave a brief overview of Attachment D, Revised Wind Farm Separations for the subject
2 property. He said that previously staff had only mapped wind farm separations that were relevant to the
3 Petitioner's property but there is a wind farm separation along every public road and that reduces the area
4 available for placement of the turbines. He said that along every road on the map there is a wind farm
5 separation indicated and staff is assuming 550 feet along both sides of the road because it is assumed that
6 virtually every other landowner would be involved in the wind farm. He said that there is a 550 foot
7 separation that travels the entire distance of the proposed RLA along the Champaign County and Douglas
8 County line. He said that it has not been confirmed as to whether Douglas County would require a
9 separation from the road but he hasn't seen any county yet that wouldn't. He said that the map indicates
10 that inside the Allerton and Broadlands ETJ's staff has dashed all of the separations along the roads
11 within those ETJ's. He said that it is unknown if those villages will require the separations but it is
12 assumed that Horizon Wind Energy will honor those separations.

13
14 Mr. Hall stated that staff revised the separation around the subject property but staff still did not get the
15 separations to the west correct. He said that Mr. Gerdes has a roughly corrected copy that he will
16 distribute at tonight's public hearing to the Board for review. Mr. Hall stated that Mr. Gerdes' corrected
17 copy should be entered as a new item of evidence but suffice to say the 1,200 foot separation from the
18 Gerdes farmstead does apply across the road.

19
20 Mr. Bluhm asked the Board if there were any questions for Mr. Hall.

21
22 Mr. Courson asked Mr. Hall if an application has been received for a wind farm in this area.

23
24 Mr. Hall stated no.

25
26 Mr. Courson asked Mr. Hall if there was a met tower located in this area.

27
28 Mr. Hall stated that he has heard rumors that there is a met tower in Douglas County but he has not
29 confirmed its existence.

30
31 Mr. Palmgren asked Mr. Hall what the signed contract means. He said that Ms. Carole Smith Horst
32 indicated in her letter that she is concerned that her family may not have the opportunity for a wind tower
33 on their property if Mr. Gerdes' request is granted. He said that the March 12, 2009, and March 26, 2009,
34 indicate that the Board discussed future use and it was determined that the Board could not speculate what
35 will happen down the road therefore if there is no contract and no permit for a wind farm then we may be
36 restricting Mr. Gerdes' use for something that might happen in the future. He noted that he visited the
37 subject property and found that it is a rather flat area.

38
39 Mr. Hall stated that in the very beginning staff spoke the State's Attorney about this very issue and staff
40 did not go to the trouble of obtaining a written opinion although Christina Papavasiliou, Assistant State's
41 Attorney assured staff that the Board is completely within its rights to take into account the anticipated
42 wind farm and that anticipation could be taken into consideration with this particular special use permit.
43 He said that regarding the characteristics of the subject property, he had the same kinds of questions

1 because it has been discussed that ridges are great places for wind farms although the subject property is
 2 not located on a ridge. He said that the only thing that staff had at its disposal was a wind site selection
 3 tool that some state agency had available and it is actually intended for homeowner use. He said that staff
 4 took some time to use the tool to see if they could identify this depressed area as any different than any
 5 higher areas around it and all staff could identify was the wind speed and it did not seem to correlate to
 6 the topography at all. He said that he understands that Horizon is using a much more advanced technique.

8
 9 Mr. Palmgren asked Mr. Hall if staff has a proposal which indicates where Horizon may have in mind.

10
 11 Mr. Hall stated that he has not seen anything on a map but it has been reported that the wind farm will
 12 include areas in the counties of Champaign, Vermilion, Edgar and Douglas. He said that there is a ridge
 13 north of the subject property which goes for some distance which would include part of Vermilion and
 14 Edgar counties.

15
 16 Mr. Palmgren stated there may be higher ground to the south also although it is hard to say what might
 17 happen without looking at a contract. He said that his guess is that the company visits a site and if it is a
 18 favorable area then they attempt to get landowners to sign on to the anticipated project. He said that if the
 19 project happens it happens and if it doesn't it doesn't but the Board should not hold up a request from a
 20 landowner who is not signed on in the mean time.

21
 22 Mr. Hall clarified that the State's Attorney indicated that the Board does not have to wait on a wind farm
 23 but can plan for a wind farm today.

24
 25 Mr. Miller stated that it is his opinion that perhaps the purpose of the RLA is also because of speculation
 26 of future wind towers being developed in the area of the subject property and the intended use is to create
 27 a safe zone where the Petitioner is not forced to live in a wind farm area. He said that his opinion is based
 28 on previous testimony presented by the Gerdes family and the timing of the RLA application is ironic in
 29 that it came shortly after the approval of the wind farm ordinance. He said that it concerns him that it
 30 appears to be a race as to who gets what first. He said that it is his opinion that granting this request is in
 31 the best interest of the County.

32
 33 Mr. Miller stated that he reviewed the listing of approved existing RLA's and many of those names he
 34 recognized and is aware of where they are located. He said that many of the landowner's of the RLA's
 35 are pilots that have their own aircraft and use the RLA for recreational purposes or private use. He said
 36 these RLA's are justified because the landowners use it for themselves but the proposed RLA is not to be
 37 used by a licensed pilot which is also the landowner. He said that it appears that the proposed RLA in this
 38 case is going to be used for commercial use only.

39
 40 Mr. Palmgren stated that in looking at the layout, which appears to be changing daily, it is a small piece of
 41 property that is being taken out of the area. He said that when it comes down to it only a few hundred
 42 acres, which would include one or two towers, is being taken out of the picture. He said that if Mr.
 43 Gerdes' objective was to block the wind farm then, if he was Mr. Gerdes, he would locate the RLA in a

1 location where he could do the most damage. Mr. Palmgren stated that he believes that Mr. Gerdes is
2 sincere in trying to establish a commercial use for his conservation efforts.
3

4 Mr. Thorsland stated that he has heard both sides of this issue and is concerned that the County only has
5 jurisdiction over 44% of the area. He said that it is unknown what Douglas County will do in regard to a
6 wind farm and he is worried putting down a narrow band which would push Champaign County out into
7 an area that we have no real jurisdiction over.
8

9 Mr. Hall stated that he hopes that the Board does not focus too much on what has been said in other
10 hearings. He said that during this particular hearing the Board needs to focus on what has been brought
11 before them and the criteria that must be met. He said that one of the most difficult criteria to meet on a
12 special use permit is if the use is necessary for the public convenience. He said that even when you have a
13 business which starts out illegally and builds a client base it is easy to prove that it is necessary and in this
14 case there has been very little evidence about necessary for public convenience. He said that people have
15 been getting their crops sprayed for a very long time without an RLA in this location. He said that there is
16 an anticipated wind farm that will benefit more than just the neighbors of this area and the Board needs to
17 take this into account when they make their final determination. He requested that the Board remain
18 focused on the evidence that has been presented at this hearing that is pertinent to the criteria that the
19 Board has to deal with.
20

21 Mr. Courson stated that there has been testimony indicating that an existing RLA that was being utilized
22 by the area has been closed.
23

24 Mr. Hall stated that the Board has not received testimony indicating that the RLA that was closed was
25 used for anything other than for Mr. Gerdes' rye grass which does not warrant public convenience but if
26 this is the Board's interpretation of public convenience then they need to make it very clear in the finding
27 so that there won't be any mistakes as to what was considered public convenience during this hearing.

29
30 Mr. Thorsland asked Mr. Hall if RLA's, by nature, are private.
31

32 Mr. Hall stated that RLA's are not required to be private.
33

34 Mr. Miller stated that Item #7.C.2 of the Revised Draft Finding of Fact dated July 24, 2009, indicates that
35 Mr. Cole, representing several neighbors to the west, indicated that his clients had signed contracts to
36 allow Horizon Wind farm to place a turbine on their property and Item #7.C.4 indicates that Mrs. Carole
37 Horst has indicated in her letter to the Board that she also had a contract on her property to place a wind
38 turbine from Horizon Wind Farms. He asked Mr. Hall if there was a conflict in these statements.
39

40 Mr. Hall stated that both of those statements are true.
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42 Mr. Miller stated that perhaps Mr. Carl Smith could clarify if there are actual signed contracts or did
43 Horizon Wind Farms approach the landowners with the proposals.

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Mr. Hall stated that staff was only trying to accurately reflect the minutes.

Ms. Capel stated that if the County can only enforce 44% of the land around the RLA then we could be creating an unsafe RLA.

Mr. Hall stated that for that part that is located within Champaign County’s zoning jurisdiction staff and the Board have done all they can to assure the safety of the RLA and if Allerton and Douglas County do not believe that this is necessary within their jurisdiction then that is their call. He said that it is hard for him to reconcile this but he does not believe that it is ruled out as a viable position to take.

Ms. Capel stated that she understands how it might be a viable position but if the County is going to make sure that only 44% of it is safe and hang the rest of it then that is kind of abdicating our responsibility.

Mr. Hall stated that it appears to be inconsistent with what the County Board decided is necessary for a safe wind farm.

Mr. Bluhm asked Mr. Hall if Allerton has a comprehensive plan.

Mr. Hall stated that Allerton does not have extra-territorial jurisdiction. He said that this is an extra-territorial zoning protest jurisdiction because neither Allerton nor Broadlands have comprehensive plans but the state wind farm regulations do not refer to them having comprehensive plans but simply refers to within one and one-half mile of a municipal zoning jurisdiction and both Allerton and Broadlands have their own zoning jurisdiction.

Mr. Bluhm stated that Allerton does not have to give any approval that Champaign County is placing a “safe zone” into their one and one-half mile jurisdiction.

Mr. Hall stated no because that “safe zone” does not apply within their one and one-half mile.

Mr. Bluhm stated that he is discussing the approach slopes. He asked Mr. Hall if Allerton had a comprehensive plan we would also need their approval.

Mr. Hall stated that the approach slopes are enforced by I.D.O.T.

Mr. Bluhm stated that I.D.O.T. would have to check with Allerton because if they did have a comprehensive plan within the next five years the area around the proposed RLA could be designated as residential.

Mr. Hall stated that this is one of those areas of overlapping planning jurisdictions and the approach slope is valid therefore whether Allerton approves it or not is up to I.D.O.T.

1 Mr. Bluhm asked the Board if there were any additional questions for Mr. Hall and there were none.

2

3 Mr. Bluhm called Mr. Jed Gerdes to testify.

4

5 Mr. Jed Gerdes, who resides at 1448 CR 2700E, Ogden stated he hopes to answer questions and alleviate
6 any concerns regarding the proposed RLA. He noted to all of his friends and neighbors in attendance that
7 regardless of the outcome of his request there will be no hard feelings because everyone is trying to do
8 what is best for their own ground and their own purposes.

9

10 Mr. Gerdes stated that the timing of his request is terrible and as soon as he found out that the airstrip that
11 he was previously utilizing was tilled under then he started his application for this request. He said that he
12 and his family drove to Villa Grove for pizza and realized that the airstrip was no longer in existence. He
13 said that he contacted Steve Riggins, owner of the previous airstrip, and asked why the air strip no longer
14 existed and Mr. Riggins informed him that he had sold his airplane and no longer needed the airstrip.

16

17 Mr. Gerdes stated that the reason for his request is because, as a farmer, he fell in love with the soil and
18 loves raising crops and utilizing the rye grass assists him in preserving and improving the soil in the area.
19 He said that he will be using the air strip for the rye grass and urea application. He said that there are a
20 lot of RLA's in Champaign County but they are all in the northern portion of the County and not within
21 his area.

22

23 Mr. Gerdes read a letter dated July 30, 2009, from Rick Reed, owner of Reed's Fly-On Farming as
24 follows:

25 It was my intention to be in attendance at the Champaign County Zoning Board Meeting tonight.
26 Unfortunately, we are currently working daylight to dark and I am unable to make it. I am sending
27 this letter to Jed Gerdes, encouraging him to use it as he sees fit.

28

29 At the last Board meeting, I stated my case in support of the Gerdes' request to build a landing
30 strip on their farm. I still urge that the vote be in their favor. I work a great deal between
31 Villa Grove and Oakwood and there is no suitable place for me to land in that area. If I had
32 a landing strip on Jed's ground today, it would have saved about three hours of extra flight
33 time while working seed corn in the Oakwood area.

34

35 I truly appreciate the concern of surrounding landowners in the realization that wind towers
36 would have to be set back from an approved landing strip. However, it is a fact that no permit
37 has been applied for by any wind developer, and planning for a wind tower that is only a
38 possibility seems a bit premature. It is my understanding that Horizon is still in the exploratory
39 stage and has yet to develop a plan and/or pattern layout should they decide to enter the
40 permit process. It is very possible that, with or without an airstrip approved, towers may not
41 be erected in that area.

42

43 I respectfully urge the Board to consider the potential good that will come from allowing the

1 construction of this air strip, good not just for the Gerdes family but for all the agricultural
2 community.

3
4 Mr. Gerdes stated that one pilot serves multiple farmers whereas most of the RLA's serve multiple pilots
5 as a hobby therefore where is the public need for those RLA's. He said that if someone has a puddle
6 jumper that someone uses just for fun on the weekends their RLA does not serve any public need where as
7 his airstrip is meant to meet the farmer's public need. He said that he spoke to Mr. Reed and he is very
8 interested in utilizing the proposed air strip and he has also spoken to his local fertilizer dealer offering
9 the air strip to utilize their needs. He said that his local fertilizer dealer's pilot clipped a power line and
10 had to fly back to Rantoul because there was no place for him to land in the area that he was serving
11 therefore there is safety concern in having no facility for those pilots to land in the southern portion of the
12 County.

13
14 Mr. Gerdes indicated on a map indicating the general location of his farm ground to show how the RLA is
15 centrally located for his use. He said that his partner, Charles Goodall, desires to plant more cover crops
16 in the Sidell area and is represented in green on the map. He said that the subject property is where the
17 central hub of his operation is located because it is where he stores the seed, farming equipment, etc. He
18 said that until the previous meeting he was not sure as to who would protest his request for the RLA and
19 since then he has put out some proposals to help those folks out because if they want to have a wind
20 turbine on their property then that is their business. He said that he has sent a proposal to the Smith's who
21 farm 80 acres to the east of the landing strip but has not received any response. He said that the RLA has
22 a 1,000 feet setback to the south end of the landing strip and 750 feet setback to the north end. He said
23 that in the current situation this is the setback from his property and if the neighboring property setback is
24 taken into consideration there is no possibility for any wind turbine, whether there is a landing strip or not,
25 to be placed within the first quarter-mile. He said that he has an 80 acre field which is a little over a mile
26 to the east which has excellent fertility and indicated in his proposal that he would be willing to trade the
27 Smith's properties so that they could have all of the turbines that they desire but again he has received no
28 response. He said that the Miles' family owns a larger property to the west of the proposed RLA therefore
29 they would not be interested in trading an 80 acre field for their larger tract. He said that the 3500 feet
30 separation would only give the Miles' neighbor 350 feet away from a wind turbine and, with the Board's
31 approval, it could be moved back to 3200 feet on the north/south line which would allow them 650 feet
32 which would give ample room to set a wind turbine and give them at least a 100 foot leeway. He said that
33 with this approval the Miles could have a wind turbine and he could have the rye grass flown on it. He
34 said that he spoke to the pilots and they indicated that just losing 300 foot on one side of the airstrip
35 would not be a big deal and they could work with it.

37
38 Mr. Gerdes stated that the 550 feet minimum separation is correct for Douglas County and the road
39 which lies in line with the southern end of the airstrip makes no possibility of a wind turbine being placed
40 in the flight place of a plane because the 550 feet separation will make it clear for the next mile. He said
41 that the Smith's have a very small area to work with and the Miles' property, with the 1200 feet setback
42 from a non-participating dwelling, 550 feet along other roads (assuming that the other landowners are
43 participating otherwise the separation would be 750 feet), his proposal to the Board would make the entire

1 would make the entire airstrip effect 100 acres for a wind turbine therefore causing very minimal impact.
2 He said that Theodore Gray, a landowner of a five acre parcel to the north, has indicated that he is not
3 interested in participating in the wind farm project therefore the north end of the airstrip would be clear of
4 wind turbines.

5
6 Mr. Gerdes stated that there has been much talk about a wind farm from north of Newman to north of
7 Homer, which would encompass most of his farmland, yet nothing has been submitted to the County. He
8 said that it is unknown where the wind farm will actually be therefore how can one spot be designated
9 over another because with all of the rumors it could be anywhere. He said that it appears ridiculous to
10 hold up the whole southern part of Champaign County on a what if.

11
12 Mr. Gerdes stated that it is his understanding that the Horizon contracts offers \$40 per acre for an option
13 on the landowners ground and then the contract can be extended with two other \$20 payments. He said
14 that basically once the contract is signed by both parties and the monies are received Horizon can lock up
15 the ground for the next 47 years where they can build a wind turbine farm but will not be required to build
16 a wind turbine farm. He said that just because someone has a signed contract does not mean that they are
17 going to receive a wind turbine it only means that Horizon is taking an option out on the ground.

18
19 Mr. Gerdes stated that a lot of government funding comes into play with these projects and companies
20 have made proposals before and not followed through such as the ethanol plants at Tuscola and Royal and
21 at the Anderson’s location, and the auto manufacturer in Fithian. He said that companies make proposals
22 all of the time but as time goes along things change therefore how can everything else be held up on a
23 “what if” scenario. He said that a big part of tonight is setting a precedence and if the Board uses a “what
24 if” scenario on a turbine setback an airstrip does not have to be so far from a turbine but the turbine has to
25 be so far from an airstrip therefore if the Board is attempting to deem whether an airstrip is worthy based
26 on turbine factors that means that this method would have to used across the board on everything. He said
27 that if someone wanted to build a house outside of Homer and they placed their house 75 feet from the
28 road they could wipe out an entire 80 acre parcel from having a wind turbine. He said that the Board
29 cannot make one rule for houses and one rule for airstrips because there are a lot of “what if” scenarios
30 when you journey down this slippery slope. He asked if someone placed a turbine on a property and
31 someone else placed a house on the property could the person who built the house request that the wind
32 turbine be taken down. He said that the Board will want to be fair and set a precedence that the Board
33 will have to respect at every meeting after this for all other requests.

34
35 Mr. Gerdes stated that the proposed airstrip is clear on all sides in regards to setbacks and adheres to all
36 F.A.A. guidelines and has been determined to be an ideal place for an airstrip. He said that wind turbine
37 setbacks cannot be used to determine an airstrip’s liability because there are no wind turbines present and
38 there may not be for several years. He said that he has been asked if he intends to use his airstrip for
39 public use and the answer is yes, if any pilot desires to use his airstrip then they are more than welcome to
40 do so. He said that if any of his proposals would help out the Smith family or the Miles family then he
41 would be happy to work with them. He said that this request is very important to his operation and he
42 would be very disappointed if it were denied.

1 Mr. Bluhm asked the Board if there were any questions for Mr. Gerdes and there were none.
2
3 Mr. Bluhm asked if staff had any questions for Mr. Gerdes.
4
5 Mr. Hall complimented Mr. Gerdes for making proposals to two of his neighbors attempting to address
6 their concerns.
7
8 Mr. Gerdes stated that he lives and works with his neighbors everyday therefore he would like to work
9 something out that would be agreeable to everyone.
10
11 Mr. Hall asked Mr. Gerdes if the Board would consider continuing Case 645-S-09, would it be possible
12 for the Board to hear from some of those neighbors whom he made the proposals to.
13
14 Mr. Gerdes stated that he does not know. He said that his neighbors have had his proposal for at least ten
15 days and he hasn't heard anything to date. He said that the neighbors are in attendance tonight therefore
16 perhaps they could speak at this hearing regarding his proposals.
17
18 Mr. Hall stated that the idea that Mr. Gerdes proposed regarding reducing the setback to a turbine on one
19 side would require a hearing for that request and would require testimony from a pilot indicating that it
20 would not seriously affect the safety of the airstrip. He said that he would like to add to Mr. Gerdes'
21 analogy about homes in the area of the wind farm. He said that under the *Champaign County Zoning*
22 *Ordinance* a landowner can sell three or four lots "by-right" and the County has no discretion as to where
23 those lots may or may not go and it is only after that point when the Rural Residential Overlay
24 requirement is involved that the County would have discretion where people could build homes. Mr. Hall
25 asked Mr. Gerdes to clarify his statement regarding how many acres the airstrip would affect, was it 100
26 acres in Champaign County or in Douglas County also.
27
28 Mr. Gerdes stated that he meant that 100 acres on the Miles' property would be affected by the airstrip.
29
30 Mr. Bluhm asked the audience if anyone had any questions for Mr. Gerdes at this time.
31
32 Mr. Carl Smith, who resides at 214 CR 2700E, Allerton asked Mr. Gerdes to clarify if the 1,000 foot
33 separation distance from a wind turbine to one of his landlord's property is what is required from the
34 County for non-participants or what Mr. Gerdes proposed.
35
36 Mr. Hall stated that the County requires a 1,000 foot separation distance from a wind turbine to non-
37 participating landowners who are within one-quarter mile of a public street.
38
39 Mr. Smith asked what the separation distance would be for someone who is more than one-quarter mile
40 from the public street.
41
42 Mr. Hall stated that there would be a separation distance of 750 feet.
43

1 Mr. Smith stated that there is more than just a little 20 foot circle that would be allowed on a property that
2 is targeted for a wind turbine.

3
4 Mr. Gerdes stated that it really depends on what the other neighbors do because you know that you have
5 to stay 550 feet from those neighbors who participate but if they do not participate in the wind farm then
6 the separation is 750 feet.

7
8 Mr. Bluhm asked if anyone else in the audience would like to cross examine Mr. Gerdes and there was no
9 one.

10
11 Mr. Bluhm called Mr. Paul Cole to testify.

12
13 Mr. Paul Cole, attorney representing Robert and Barbara Miller, stated that he would like to correct a
14 previous statement indicating that Hester Miles owns property on the west side although that is incorrect it
15 is Robert Miller who owns the property on the west side of the subject property. He said that the
16 materials that he received indicated that he represents Hester Miles and Robert and Barbara Miller
17 although this is incorrect, he is only representing Robert and Barbara Miller. He said that none of his
18 clients have a contract for a wind turbine to be placed on their property. He said that he thought very
19 briefly of patting Mr. Gerdes on the back and telling him that he is an earnest, likable person and if he
20 were sitting on the Board he would want to give him what he is asking for but Mr. Gerdes is asking the
21 Board to set a precedence that is just wrong. He said that the Board is currently being asked to ignore the
22 law and it is really seductive and tempting to make this issue all about wind farms and whether someone
23 has a contract to place a turbine on their property. He said that he is present tonight to represent the
24 Millers and asking the Board to look at their responsibility under the law. He said that he is present at
25 tonight's meeting because the Miller's property rights are about to be effected by a decision allowing this
26 landing strip.

27
28 Mr. Cole stated that everyone that owns land owns it from the center of the earth up to the surface on to
29 the sky and everyone would like to think that they could do whatever they want to do whenever they want
30 to on their land although the only reason that they can't is because we have things like zoning ordinances,
31 which makes perfect sense. He said that personally, he does not want a pig farm next to his house in the
32 middle of Champaign but the Zoning Ordinance will allow a special use permit for a landing strip, as it
33 applies in this situation and if it was allowed, would be taking away the Miller's rights for their property.
34 He said that the Miller's have the right to come before this Board for a special use permit for a wind
35 turbine although if the proposed landing strip is approved the Miller's will be denied their right to request
36 their special use permit. He said that approval of the landing strip will be as if the Miller's had their
37 hearing without ever having it and were denied and that should not happen and that is not what the Zoning
38 Ordinance intends. He said that the Zoning Ordinance says: "necessary at this particular location for the
39 public convenience" therefore this Board is not allowed to authorize this RLA unless it has found the very
40 specific reasons that honor the Ordinance.

41
42 Mr. Cole stated that Item #7.F.3 of the Revised Draft Summary of Evidence dated July 24, 2009, indicates
43 that Mr. Gerdes gave testimony at the June 11, 2009, public hearing that his family needs to establish a

1 establish a new landing strip so they can continue using rye grass to protect their fields from erosion. Mr.
2 Cole said that Item #7.F.5 indicates that Mr. Gerdes testified that he is one of the only farmers in Central
3 Illinois who has been working with rye grass and Item #7.F.13 indicates that Mr. Gerdes testified that he
4 could save five to ten dollars per acre by providing a landing strip closer to where he farms which is the
5 essence of the math in that this is the location of the airstrip in relation to Mr. Gerdes' farming operation.
6 Mr. Cole asked what it is about this location that is so necessary for the public or is it only necessary for
7 Mr. Gerdes' economic convenience. Mr. Cole stated that there has been some information presented
8 concerning the relative income that might arise from farming versus wind farming and the possibility that
9 wind farm contracts signed by farmers might tie up their land for many years without the prospect of a
10 wind farm ever being developed, so what. Mr. Cole stated that everyone has the right to use their land for
11 whatever economic purpose they seek and if we were really looking at the comparison of a potential wind
12 farm with a potential field of rye grass, assuming that the wind farm happened, wouldn't we be looking at
13 a very large increase in value of a taxable base generating a lot of money to the County. He said that if the
14 wind farm doesn't happen then no harm is done because all we have now is agriculture just as Mr. Gerdes
15 has currently. He said that the possibility that some immense benefit might come along is good and the
16 fact that it only might come along does not mean that Mr. Gerdes is entitled to his airstrip. Mr. Cole
17 asked the Board what is the law. He said that he is a lawyer and when a lawyer stands up and states, "this
18 is the law," someone wants to shoot him but the law is there for a reason and it is there because a
19 landowner has the right to do what they want to do unless there is a law that states otherwise. He said that
20 if the law is used in a way that detracts from rights that a landowner has anyway is not right. He said that
21 the Miller's may not know whether they can place a wind turbine on any particular acreage of their land
22 but they don't want to be told by this Board that their current rights have now disappeared and they might
23 not as well try to come before the ZBA for a special use permit because it has already been denied. He
24 said that when something like this happens it is called condemnation which is when a government body
25 takes from the property owner the rights that they had then that government body is suppose to
26 compensate the property owner for it. He said that this is a taking and pardoned himself for being so
27 direct with the Board. He said that this use must be proven to the Board that it is necessary for the public
28 convenience at this location. He said that he hopes that Mr. Gerdes is able to find another location for his
29 hired pilot to land his airplane because it would seem that there are other RLA's around the County, some
30 unused, that could be used or revived. He said that this means that the proposed RLA is not so special
31 therefore it is not necessary at this location unless the Board happens to buy into Mr. Gerdes' presentation
32 that it is more central to his private operation therefore it helps him personally, privately and economically
33 but if that is the only reason then the Board should not approve his request.

35
36 Mr. Bluhm asked the Board if there were any questions for Mr. Cole.

37
38 Mr. Courson asked Mr. Cole to define the term "public."

39
40 Mr. Cole stated that this is an interesting request and it has always been such. He said that if you look at a
41 special use permit application for a common convenience food store or gas station within a neighborhood
42 which normally does not house such things then "public convenience" is applicable because it is a service
43 the general public cannot otherwise obtain and is a lot more convenient for them to get to it if it is within

1 to get to it if it is within three blocks of their home rather than one mile away. He said that the term
2 “public” is meant in terms of a lot of people and by a lot of people he does not mean of the number of
3 different classes of people but the large number of people that the use will serve as a convenience. He
4 said that there has to be a distinction between in numbers because otherwise someone could say that they
5 know a guy who has indicated that he would use the airstrip and because he is in the public the public
6 convenience is satisfied. Mr. Cole stated that when he states the term “public” he is referring to a large
7 number of people who have an interest in obtaining something that they cannot get conveniently
8 somewhere else.

9
10 Mr. Bluhm asked the Board if there were any additional questions for Mr. Cole.

11
12 Mr. Palmgren asked Mr. Cole about the agricultural public because they could be in a radius of ten miles
13 and might find that this is convenient in that the use of the airstrip would make it more economical to
14 apply chemicals and participate in the rye grass program. He said that there are not going to be people
15 driving down to the property to buy groceries but there will be a lot of people in the agricultural district
16 that might need the airstrip on an emergency basis. He asked Mr. Cole if the agricultural public would be
17 considered a class of the public or would it not be relevant.

18
19 Mr. Cole stated that this particular airstrip at its proposed location is on a county road that is marked as
20 being somewhat impassible when it is wet therefore the public cannot include anyone who expects the get
21 there in a car and could only be those few people who intend to fly airplanes onto the airstrip. He said
22 that assuming that there are five or six people who would find it more economical to use this location than
23 another would not make it necessary for the public convenience. He asked why existing landing strips
24 cannot be used and an arrangement be made with someone else for that purpose.

25
26 Mr. Palmgren stated that previous testimony indicates that there are no existing RLA’s in the area and
27 many of the landing strips that were indicated in the Supplemental Memorandum dated July 30, 2009, are
28 no longer in service and may never be again. He said that he is looking at the area and agricultural
29 operations and the possibility of safety concerns because if a wind farm is constructed one day the RLA
30 may prove useful for the wind farm. He said that there are no airstrips, not a commercial airport, in this
31 part of the County therefore it may qualify as a public use.

32
33 Mr. Cole stated that it could also be said that there might be two other commercial agricultural operations
34 that might find it convenient to use this location but it does not make it necessary and this is not a filling
35 station or convenient food store but is a landing strip and airplanes go much greater distances than cars
36 without complaining about it. He said that the question is, what has been presented to the Board, in a way
37 of evidence, that demonstrates that there is an aviation public that desires this to happen and the only
38 testimony that has been received regarding such is from the property owner which has indicated that it
39 suits his private convenience and his agricultural operations and his hired pilot who does his seed
40 spreading, this is not the public.

41
42 Mr. Bluhm asked the Board if there were any additional questions for Mr. Cole.

1 Mr. Bluhm stated that he understands Mr. Cole's point that if the airstrip is approved it will limit the
2 rights of the adjacent property owners. He asked Mr. Cole if there are not similar situations that could
3 occur such as if the Miller's, Mr. Cole's clients, desire to place a hog farm on their property and the
4 adjacent neighbors desire to construct a subdivision. Mr. Bluhm stated that the Board will have to follow
5 all the laws and everything else from animal units to separation from livestock facilities therefore taking
6 away the rights of that adjacent neighbor. He said that the table could be flipped.

7
8 Mr. Cole stated that yes, it sometimes depends on who got their request in first and that distinction
9 explains what he is speaking about which is the law because he does not want his client to lose his
10 property rights. He said that he would not want this to be a contest between wind farms and landing strips
11 because it isn't but the reason why he is talking about it is because what does the law state and it
12 indicates, "necessary for the public convenience in this location." He said that if the Board wants to allow
13 one person to do something that takes away the rights of another landowner then the Board has offended
14 his client and because his client might be offended he is in attendance tonight. He said that this should
15 not make any difference because the point is the Board should be asking themselves the same question
16 which is, "Does this application satisfy the law, necessary for the public convenience at this particular
17 location."

18
19 Mr. Bluhm asked Mr. Hall if there are similar situations that the Mr. Cole's clients would desire to do
20 something on their property which would limit the rights of an adjacent property.

21
22 Mr. Hall stated that there are very few, if anything in the Zoning Ordinance whose effects go out to 3,500
23 feet.

24
25 Mr. Bluhm asked Mr. Hall if there are uses which would affect adjacent landowners which are a lot
26 closer.

27
28 Mr. Hall stated that he could not think of any special use permit in the AG-1 District that has any
29 separation requirements like this other than the wind farms. He said that an interesting question is, "What
30 is generating the separation, the wind farm or the RLA?"

31
32 Mr. Cole stated that we could assume that there are some developments that would be subject to a special
33 use permit, on his client's property that could interfere with their neighbor's uses. He said that his clients
34 could request a special use permit and their neighbor could object but whether or not their neighbor
35 objected this Board would still have to ask itself the same basic question, "Does this applicant show that
36 the use that has been requested as necessary for the public convenience at this location?" He said that we
37 have been inundated with discussions whether a wind farm may or may not go in and whether you can
38 sequester carbon by planting more rye grass and if you looked at all the coal barges going up the Yangtze
39 River today you would know that the Chinese are going to pump carbon monoxide into the atmosphere
40 and it doesn't matter how much rye grass you plant because we are not the problem. He asked the Board
41 not to set a precedence and lose sight of the fact that the law is very simple and we know that the
42 applicant has to demonstrate proof that has not been done and in fact everything that the applicant has
43 presented only represents his operation, his convenience, and his costs with a little bit of salt that his hired

1 salt that his hired pilot has indicated that he would use the airstrip too, that is not the public.
2
3 Mr. Bluhm asked Mr. Cole if all of the other approved RLA's have been approved against the law.
4
5 Mr. Cole stated that he does not know because he was not there when they were approved.
6
7 Mr. Palmgren asked if Mr. Gerdes needed to prove that the use is necessary at the location or is necessary
8 for the location.
9
10 Mr. Hall stated that Mr. Gerdes must prove that the RLA is necessary at that location. He said that it is
11 kind of a mystery to him how any RLA is necessary for public convenience which makes that criteria a
12 challenge but there are other criteria that the Board must also come to terms with such as, is it injurious to
13 the district. He requested that the Board keep in mind that all five of the criteria, not just necessary for
14 public convenience, be considered.
15
16 Mr. Cole stated that a landing strip could be established which is necessary for medical evacuation
17 purposes and educational or training purposes. He said that there are surely a number of ways to
18 demonstrate public convenience even though it is a private airstrip.
19
20 Mr. Hall stated that one way that public convenience could be demonstrated in this case is if more farmers
21 other than just the Petitioner testified that it was in fact necessary.
22
23 Mr. Palmgren asked if Mr. Reed's testimony would fit into that category.
24
25 Mr. Hall stated that Mr. Reed has already testified that the proposed RLA is necessary therefore the Board
26 could take his testimony into account.
27
28 Mr. Miller stated that he has some questions that may require opinions from the State's Attorney, who is
29 absent at tonight's meeting, which may require a short closed session.
30
31 Mr. Hall stated that if Mr. Miller's questions are regarding public convenience then he does not believe
32 that a closed session would be suitable. He said that he could ask the State's Attorney to provide a
33 memorandum providing some considerations for the Board to take into account for public convenience.
34 He said that he would suspect that this would be quite a challenge but if the Board desires he will make
35 that request.
36
37 Mr. Bluhm asked the audience if anyone desired to sign the witness register at this time to present
38 testimony regarding Case 645-S-09 and there was no one.
39
40 Mr. Gerdes stated that there has been a lot of discussion regarding public convenience but one pilot
41 services 20 to 50 farmers therefore it is up to the pilot as to what facility they will utilize during their
42 application. He said that if Mr. Reed desires to use the proposed RLA and the fertilizer company that he
43 had offered services to could save time in flying locally rather than 40-50 miles to Rantoul. He said that

1 since one pilot will service many farmers there may only be one or two pilots that will serve the entire
2 public in the area.

3
4 Mr. Carl Smith stated that the fact that few pilots serve many farmers is absolutely true and Mr. Reed has
5 sprayed several acres for him over the years. He said that in all of the years that Mr. Reed has serviced his
6 fields Mr. Reed has flown out of his Mattoon location although the Tuscola airport or Danville airport
7 would have been much closer. He said that currently he is in the midst of having fields sprayed and the
8 pilots are flying from Paris and Rantoul and do not choose Champaign, Danville or Tuscola. He said that
9 they choose to fly out of their home location where their equipment is set up for their chemicals and
10 everything else but if it were more economical for them to move to a closer location he would imagine
11 that they would therefore the availability of this RLA will not act as a magnet to attract pilots to use as a
12 base of operation. He said that there has been testimony that the RLA would save area farmers money
13 although he has never been told from a pilot that if he could move to a closer location he would charge
14 less.

15
16 Mr. Bluhm asked the Board if there were any questions for Mr. Smith and there were none.

17
18 Mr. Bluhm asked if staff had any questions for Mr. Smith and there were none.

19
20 Mr. Bluhm asked the audience if anyone had any questions for Mr. Smith and there was no one.

21
22 Mr. Bluhm asked the audience if anyone else desired to sign the witness register to present testimony
23 regarding Case 645-S-09 at this time and there was no one.

24
25 Mr. Bluhm requested the Board's comments.

26
27 Mr. Miller stated that he would like to have a recommendation from the State's Attorney prior to making
28 a final determination in this case.

29
30 Mr. Bluhm asked the Board if they would like to have a recommendation from the State's Attorney.

31
32 Mr. Miller stated that Mr. Gerdes must prove the criteria and to date it does not appear that he has done so
33 but if he can give proof that the criteria for approval has been met then the Board is well within the law to
34 approve his request.

35
36 Mr. Courson stated that he would like to see this case continued to a later date so that Mr. Gerdes can
37 obtain responses from the neighbors regarding land swapping. He said that it would also be beneficial if
38 Mr. Gerdes could obtain comments from other pilots indicating that the RLA was necessary at this
39 location to service their clients.

40
41 Mr. Bluhm stated that Mr. Cole's testimony regarding the other existing RLA's could be public
42 convenience for flight training but how many people would that actually serve. He said that within an
43 agricultural district how many people would be participating in a flight school therefore he only takes Mr.

1 Mr. Cole's comments with a grain of salt. He said that he would like direction from the State's Attorney
2 regarding what the law states about public convenience.
3

4 Mr. Palmgren stated that flight training is probably not going to happen on a sod airstrip. He said that as a
5 pilot if he were flying out in the middle of nowhere it would be convenient to have an RLA available to
6 land on if he discovered he was having trouble with his aircraft. He said that if the requested RLA is
7 approved by the State of Illinois then it will be marked on a map for pilots and if they are having trouble
8 in that particular location they will be looking for that RLA therefore this would prove that the RLA
9 would be necessary for public convenience. He said that he lives in Aero-Place Subdivision and it is
10 amazing how much air traffic flies over that airstrip.
11

12 Mr. Bluhm asked the Board if they had any other comments or suggestions for staff to investigate. Mr.
13 Bluhm stated that the case would need to be continued due to the amount of testimony that has been given
14 at tonight's meeting which must be incorporated into the Finding of Fact. Mr. Bluhm requested a
15 continuance date from staff.
16

17 Mr. Hall stated that the chances of obtaining a written recommendation from the State's Attorney are
18 better if the case is continued to a later date. He said that the maximum allowed continuance date cannot
19 be past 100 days, unless the By-laws are suspended, which would continue this case to October 29, 2009.
20 He said that he has a concern that the October 29th date may not be a favorable date because it could be
21 well within the height of harvest therefore the By-laws could be suspended to continue the case until such
22 time when a quorum of Board members could be expected to make a determination. He said that the
23 Petitioner should also be asked if October 29th would be convenient. He said that given that the Board
24 has indicated that they would be more comfortable making such a determination when they have
25 comments from the State's Attorney it may be well advisable to suspend the rules.
26

27 Mr. Bluhm requested Mr. Gerdes' thoughts regarding a continuance date.
28

29 Mr. Gerdes stated that due to the late harvest that they are anticipating October 29th would not be a
30 favorable date and hopefully he would be wrapping things up by November 12th although application of
31 anhydrous application could go into December. He said that he will just have to make arrangements to be
32 at whatever continuance date the Board determines.
33

34 Mr. Bluhm stated that the Board could continue the case to the November 12th or December 3rd.
35

36 Mr. Gerdes stated that he will abide by whichever date the Board chooses.
37

38 Mr. Bluhm requested the Board's comments regarding a continuance date.
39

40 Mr. Bluhm requested a motion to suspend the By-laws.
41

42 **Mr. Palmgren moved, seconded by Ms. Capel to suspend the By-laws regarding the 100 day**
43 **continuance date for Case 645-S-09. The motion carried by voice vote.**

1
2 **Mr. Schroeder moved, seconded by Mr. Thorsland to continue Case 645-S-09 to December 3, 2009,**
3 **meeting. The motion carried by voice vote.**
4

5 Mr. Bluhm reminded the audience that anyone who signed the attendance register and the witness register
6 will receive information regarding this case for the December 3rd meeting.
7

8 **6. New Public Hearings**

9

10 ***Case 647-V-09 Petitioner: Dennis and Jeanine French Request: Authorize the creation and use of a**
11 **lot that is 7.71 acres in area on best prime farmland in lieu of the maximum allowed three acres on best**
12 **prime farmland. Location: A 7.71 acre tract in the North Half of the Northeast Quarter of the**
13 **Northeast Quarter of Section 5 of Raymond Township and commonly known as 1985 CR 600N, Sidney.**

15
16 Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone
17 the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands
18 for those who would like to cross examine and each person will be called upon. He requested that anyone
19 called to cross examine go to the cross examination microphone to ask any questions. He said that those who
20 desire to cross examine are not required to sign the witness register but are requested to clearly state their
21 name before asking any questions. He noted that no new testimony is to be given during the cross
22 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt
23 from cross examination.
24

25 Mr. Bluhm noted that there are two registers which require signatures. The attendance record indicates
26 everyone's presence at tonight's meeting and if a member of the audience desires to present testimony
27 regarding a particular case then they need to sign the witness register pertaining to that case.
28

29 Mr. Hall stated there is no new information regarding Case 647-V-09, to present at tonight's meeting. He said
30 that this case is a prime example where the County's best prime farmland maximum lot size has no exceptions
31 in the Ordinance, even for existing farmstead sites. He said that the subject property is a proposed 7.71 acre
32 lot which would include the farmstead. He said that the 1972 aerial indicates that what appears to be an old
33 pasture has never been in row crop production therefore no best prime farmland will be taken out of
34 production. He said that staff forgot to include as part of the Special Conditions of the Summary of Evidence
35 that the size of the lot is of small size and irregular shape. He said that the small size and irregular shape may
36 be one of the reasons why the ground between the house site and the railroad has always been in pasture
37 ground rather than row crop production. He said that during the Board's review of the Summary of Evidence
38 staff needs to address this information.
39

40 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.
41

42 Mr. Bluhm called Mr. Dennis French to testify.
43

1 Mr. Dennis French who resides at 1985 CR 600N, Sidney stated that he appreciates the Board’s time given at
2 tonight’s meeting. He said that when he and his wife purchased the property they were living in Louisiana
3 and were very unfamiliar with the multitude of rules and regulations in Illinois. He said that when they
4 purchased the property they were under the impression that Mr. Erb, the previous owner, had secured a
5 temporary variance and it was his responsibility to obtain a permanent variance but it was later discovered that
6 this was not the case. He said that Mr. Erb was born and raised in the existing house and has lived there all of
7 his life therefore this may have been the reason why Mr. Erb did not feel the need to obtain a variance for the
8 property. He said that Mr. Erb has photos of the property which indicates oak trees that extended back to
9 current property. Mr. French stated that at this point he would like to obtain the variance for his property so
10 that in case his house is destroyed he could rebuild it. He said that he and his wife have no intentions to
11 change anything on the property.

12
13 Mr. Bluhm asked the Board if there were any questions for Mr. French and there were none

14
15 Mr. Bluhm asked if staff had any questions for Mr. French and there were none.

16
17 Mr. Bluhm asked the audience if anyone desired to cross examine Mr. French and there was no one.

18
19 Mr. Bluhm asked the audience if anyone desired to sign the witness register and present testimony regarding
20 Case 647-V-09 and there was no one.

21
22 **Summary of Evidence for Case 647-V-09:**

23
24 Mr. Hall stated that a new Item #7E should indicate the following: The small size and irregular shape,
25 specifically along the east lot line of the subject property, makes it less desirable than the surrounding
26 farmland for agricultural purposes. He said that a new Item #9D should indicate the same text as inserted in
27 new Item #7E. He said that Item #7D should be revised to indicate the following: Under the Illinois Plat Act
28 the Petitioner has the right to create a parcel greater than five acres in area.

29
30 **Finding of Fact for Case 647-V-09:**

31
32 Mr. Bluhm said that from the documents of record and testimony and exhibits received at the public hearing
33 for the zoning case 67-V-09 held on July 30, 2009, the Zoning Board of Appeals finds that:

- 34
35 **1. Special conditions and circumstances DO exist which are peculiar to the land or**
36 **structures involved, which are not applicable to other similarly situated land and**
37 **structures elsewhere in the same district.**

38
39 Mr. Thorsland said that Special conditions and circumstances DO exist which are peculiar to the land or
40 structures involved, which are not applicable to other similarly situated land and structures elsewhere in the
41 same district because the property was sold with the understanding that a variance was granted, the land was
42 out of production since pre-1972 and the lot was of irregular shape and not suitable for row crop production.

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- 1 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
2 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**
3 **the land or structure or construction.**
4

5 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the
6 regulations sought to be varied WILL prevent reasonable or other wise permitted use of the land or structure
7 or construction because it would keep the applicant from obtaining a building permit.
8

9 Mr. Miller stated that a three acre lot would not encompass all of the existing buildings.
10

- 11 **3. The special conditions, circumstances, hardships or practical difficulties DO NOT result**
12 **from actions of the applicant.**
13

14 Mr. Courson stated that the special conditions, circumstances, hardships or practical difficulties DO NOT
15 result from actions of the applicant because the structures had already existed and the portion of the property
16 which is in pasture was never in row crop production.
17

18 Ms. Capel state that the property was purchased under the pretense that the previous owner had applied for the
19 variance.
20

- 21 **4. The requested variance IS in harmony with the general purpose and intent of the**
22 **Ordinance.**
23

24 Mr. Thorsland said that the requested variance IS in harmony with the general purpose and intent of the
25 Ordinance because it meets all other zoning requirements and it not prohibited by the Ordinance.
26

- 27 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
28 **detrimental to the public health, safety or welfare.**
29

30 Mr. Palmgren stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
31 detrimental to the public health, safety or welfare because the subject property is of irregular shape with
32 existing buildings and a portion of the land is out of production.
33

- 34 **6. The requested variance IS the minimum variation that will make possible the reasonable**
35 **use of the land/structure**
36

37 Mr. Miller stated that the requested variance IS the minimum variation that will make possible the reasonable
38 use of the land/structure because it would be squaring up the parcel to make the minimum lot variation.
39

40 Mr. Bluhm stated that the building site is more than three acres.
41

42 Mr. Bluhm stated that there are no special conditions.
43

1
2 Mr. Thorsland moved, seconded by Mr. Schroeder to adopt the Summary of Evidence, Documents of
3 Record and Finding of Fact as amended. The motion carried by voice vote.
4

5 Mr. Thorsland moved, seconded by Mr. Courson to close the public hearing for Case 647-V-09. The
6 motion carried by voice.
7

8 **Final Determination**
9

10 Mr. Miller moved, seconded by Mr. Thorsland that the Champaign County Zoning Board of Appeals
11 finds that based on the application, testimony and other evidence received in this case that the
12 requirements of Section 9.1.9C HAVE BEEN met and, and pursuant to the authority by Section 9.1.6.B
13 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County
14 determines that the Variance requested in Case 647-V-09 is hereby GRANTED to the petitioners
15 Dennis and Jeanine French , to authorize the creation and use of a lot 7.71 acres in area on best prime
16 farmland in lieu of the maximum allowed three acres on best prime farmland.
17

18 The roll was called:
19

20	Capel-yes	Courson-yes	Miller-yes
21	Palmgren-yes	Schroeder-yes	Thorsland-yes
22	Bluhm-yes		

23
24
25 **7. Staff Report**

26
27 None
28

29 **8. Other Business**

30 **A. Scheduling of wind farm zoning cases**
31

32 Mr. Hall stated that staff is continuing to indicate on the docket the scheduling of our first wind farm case and
33 at a certain point the Board may want to consider suspending the Bylaws and docketing the anticipated case
34 for one, two or three meetings simply to reserve those meetings so that it could be placed on the docket. He
35 said that if the Board reserved October 15th and October 29th for the wind farm then staff would have to begin
36 monitoring that case so that as soon as the last ZBA meeting, before we lose the window to advertise cases for
37 the October 15th meeting, it could be decided, if there is no wind farm application, which other cases could be
38 move up to fill the docket therefore other petitioners are not being delayed due to an anticipated wind farm
39 application. He said that he does not anticipate receiving a wind farm application in September and it is
40 doubtful if we will receive one in October. He said that cases on the docket appear to be minimal therefore at
41 this time it is not a big deal but it is something that staff and the Board must keep track of. He said that the
42 Board does not need to take any action tonight but during the months of November and December it is very
43 difficult to do anything really significant at the Board because it is very difficult to have meetings. He said

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1 meetings. He said that staff will report to the Board regarding this issue at each meeting and at a point when
2 the Board finds is necessary he would recommend that the By-laws are suspended and three consecutive
3 meetings be set aside for the wind farm.
4

5 Mr. Thorsland asked Mr. Hall if the Board should place the anticipated wind farm on the docket.
6

7 Mr. Hall stated no, because once those meeting dates are set aside we must make sure that we do not waste a
8 meeting date due to awaiting the wind farm application and no initiative was taken to move another case up
9 on the docket.
10

11 Mr. Thorsland asked Mr. Hall if anything that is on the backburner could be moved up on the docket.
12

13 Mr. Hall stated that the only thing that is on any burner is what is indicated on the current docket.
14

15 Mr. Thorsland stated that perhaps staff should be giving new applicants a heads up about the anticipated wind
16 farm application and the status of the docket.
17

18 Mr. Hall agreed.
19

20 Mr. Thorsland stated that he would hate to hold up the docket for an anticipated wind farm application and
21 have no application submitted when someone who has submitted their application is ready to go.
22

23 Mr. Hall stated that in the old days staff would not accept an application until it was complete but that lead to
24 a huge backlog and currently the docket is so scarce staff has been accepting partial applications so that the
25 applicant can obtain a docket date. He said that while the applicant is awaiting their docket date they can
26 complete their application and submit any pertinent documentation to make their case more robust. He said
27 that currently we are back to the situation where we have taken partial applications and by the time their case
28 came up they had not gotten everything to staff. He said that applicants want to get on the docket as soon as
29 possible but staff needs a complete application so that staff does not advertise in error.
30

31 Mr. Bluhm asked Mr. Hall if the cases that are listed on the docket for October 1st are complete or tentative.
32

33 Mr. Hall stated that both cases are tentative. He said that staff has been in contact with both and the
34 petitioners contact staff on an infrequent, irregular basis. He asked Mr. Knight if staff currently has complete
35 applications for either case.
36

37 Mr. Knight stated no. He said that both petitioners are working on their new plan.
38

39 Mr. Bluhm asked if staff would like the Board to block off the next three meetings for the wind farm.
40

41 Mr. Hall stated that the Board can make this decision at the next meeting. He said that staff needs more than
42 six weeks to have a wind farm ready for a public hearing. He said that the Board saw tonight how difficult
43 managing all of the separations are and he doubts that the wind farm applicant supplies a good diagram to

1 prove that they have met all of the separation requirements. He said that he believes staff needs at least two
2 months after application before the first hearing for a wind farm occurs. He said that staff needs at least a
3 month for the slightest zoning case anyway and with the volume of data that staff needs to review with a wind
4 farm two months would not be unreasonable. He said that with the two month requirement the docket is
5 already past the October timeframe.

6
7 Mr. Bluhm stated that the public hearings for October 15th, October 29th and November 12th could be blocked
8 off for the wind farm with the stipulation that the application must received prior to a certain date. He said
9 that if staff believes that six weeks is the time period before the first public hearing could be heard for the
10 wind farm then the applicant could be informed that the application must be received six weeks prior to the
11 first hearing and if it is not then that date is gone. He said that if the applicant for the wind farm is not going
12 to get the application to staff by the required time period then staff and the Board is not going to go under
13 pressure for that applicant.

14
15 Mr. Hall stated that in retrospect it would have been good to have indicated that timeline in the *Ordinance* but
16 it was not thought of at that time.

17
18 Mr. Bluhm stated that the Board could still do that.

19
20 Mr. Hall stated that he is comfortable with just six weeks prior to the first hearing.

21
22 Mr. Knight stated that staff has been planning on re-advertising Case 634-AT-08, Part B, which has not been
23 done to date therefore if a timeline is desired then it could be inserted at that time.

24
25 Mr. Hall stated that it is a possibility.

26
27 Mr. Bluhm stated that the Board should begin giving staff direction about this issue at this time. He said that
28 if the Board decides to block off those three meetings then if an application is not received within six weeks
29 prior to any of those meetings the meeting date will be lost.

30
31 **Mr. Thorsland moved, seconded by Ms. Capel to suspend the By laws to take cases out of order. The**
32 **motion carried by voice vote.**

33
34 **Mr. Thorsland moved, seconded by Mr. Courson to reserve the docket dates of October 15, 2009,**
35 **October 29, 2009, and November 12, 2009, for the anticipated wind farm providing that a complete**
36 **application is received six weeks prior to the first meeting date. The motion carried by voice vote.**

37
38 **9. Audience Participation with respect to matters other than cases pending before the Board**
39

40 Mr. Schroeder stated that he respects the younger Board members that we have currently rather than what the
41 Board used to have when the attorneys would come before the Board to batter them with what they were
42 doing wrong. He said that he is the only Board member which is old enough to remember that there used to
43 be some pretty bad Board meetings when it was common for two or three attorneys to come up and tell the

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1 Board how bad they were.

2

3 **10. Adjournment**

4

5 The meeting adjourned at 9:15 p.m.

6

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11

12 Respectfully submitted

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17 Secretary of Zoning Board of Appeals

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1 **MINUTES OF REGULAR MEETING**
2
3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**
4 1776 E. Washington Street
5 Urbana, IL 61802
6

7 **DATE:** October 15, 2009 **PLACE:** Lyle Shields Meeting Room
8 1776 East Washington Street
9 **TIME:** 7:00 p.m. **Urbana, IL 61802**

10 **MEMBERS PRESENT:** Doug Bluhm, Catherine Capel, Thomas Courson, Roger Miller, Melvin
11 Schroeder, Eric Thorsland, Paul Palmgren
12

13
14 **MEMBERS ABSENT :** None

15
16 **STAFF PRESENT :** Connie Berry, John Hall, J.R. Knight
17

18 **OTHERS PRESENT :** Ben McCall, Phillip Geil, Herb Schildt, Sherry Schildt, Birgit McCall,
19 Steve Burdin
20

21
22 **1. Call to Order**

23
24 The meeting was called to order at 7:01 p.m.
25

26 **2. Roll Call and Declaration of Quorum**

27
28 The roll was called and a quorum declared present.
29

30 **3. Correspondence**

31
32 None
33

34 **4. Approval of Minutes (July 16, 2009 and October 1, 2009)**

35
36 **Mr. Thorsland moved, seconded by Mr. Miller to approve the July 16, 2009 and October 1, 2009,**
37 **minutes as submitted. The motion carried by voice vote.**
38

39 **5. Continued Public Hearing**

40
41 **Case 634-AT-08 Part B Petitioner: Zoning Administrator Request: Amend the *Champaign County***
42 ***Zoning Ordinance* as follows: 1. Add definitions for “SMALL WIND TURBINE TOWER” and**
43 **“BIG WIND TURBINE TOWER,” and revise the definition for “WIND FARM”; and 2. Amend**
44 **subsection 4.2.1. to allow “BIG WIND TURBINE TOWER” as a principal use on lots in the AG-1**
45 **and AG-2 Zoning Districts; and 3. Amend paragraph 4.3.1E. to add new height regulations that**
46 **apply to “SMALL WIND TURBINE TOWER” AND “BIG WIND TURBINE TOWER”; and 4.**
47 **In Section 5.2 replace “wind turbine” with “BIG WIND TURBINE TOWER” and indicate BIG**
48 **WIND TURBINE TOWER is only authorized as a second principle use on lots in certain Zoning**
49 **Districts; and 5. In Section 6.1.3 add new standard conditions for “BIG WIND TURBINE**

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1 TOWER” that are similar to the standard conditions for a WIND FARM; and 6. Add new
2 subsection 7.7 making “SMALL WIND TURBINE TOWER” an authorized accessory use by-
3 right in all zoning districts and add requirements including but not limited to: (a) the turbine
4 must be located more than one and one half miles from the nearest municipal zoning jurisdiction;
5 and (b) minimum required yard that are the same as for other accessory structures in the district
6 provided that the overall height is not more than 100 feet; and (c) an overall height limit of 200
7 feet provided that the separation from the nearest property line is at least the same as the overall
8 height and authorize private waivers of the separation by adjacent neighbors; and (d) a limit of no
9 more than two turbine towers per lot; and (e) allowable noise limits; and (f) a requirement for
10 engineer certification; and (g) a requirement to notify the electrical power provider if
11 interconnected to the electrical grid; and (h) a requirement that no interference with neighboring
12 TV, radio, or cell phone reception; and (i) a requirement for the removal of inoperable wind
13 turbines. 7. In Section 9.3.1.add fees for SMALL WIND TURBINE TOWER and BIG WIND
14 TURBINE TOWER; and 8. In Section 9.3.3 add application fees for BIG WIND TURBINE
15 TOWER Special Use Permit.
16

17 Mr. Hall distributed a Supplemental Memorandum dated October 15, 2009, and a Preliminary Draft
18 Finding of Fact and Final Determination dated October 15, 2009, to the Board for review. He said that
19 the case was readvertised to reflect the changes indicated in Attachments A through E of the October 9,
20 2009, Supplemental Memorandum. He said that Attachment A indicates a revision to Section 3.0
21 changing the definition of WIND FARM and WIND FARM TOWER and coordinates the definition of
22 BIG WIND TURBINE TOWER and SMALL WIND TURBINE TOWER. The revision makes it clear
23 that a SMALL WIND TURBINE TOWER is simply a wind turbine tower which is not more than 200
24 feet in overall height and a BIG WIND TURBINE TOWER is a wind turbine tower which is more than
25 200 feet in overall height, but the energy produced has to be principally used on site by another principal
26 use on the same property and, to a much lesser extent, may be sold to a utility. He said that anything
27 that does not meet these two definitions will be considered, by definition, a wind farm tower. He said
28 that staff has finally tightened up any loopholes that someone could use to skirt the wind farm
29 requirements by claiming that their structure is a BIG WIND TURBINE TOWER. He said he does not
30 know if there will ever be a request for a BIG WIND TURBINE TOWER but it is possible. He said that
31 Attachment B indicates a revision to subparagraph 4.2.1C. He said that there is a general prohibition in
32 the *Zoning Ordinance* which indicates that it shall be unlawful to erect or establish more than one MAIN
33 or PRINCIPAL STRUCTURE or BUILDING per LOT or more than one PRINCIPAL USE per lot in
34 the AG districts and by definition a BIG WIND TURBINE TOWER is not an accessory use because it is
35 much too big and the impacts are too significant therefore it has to be authorized as a second principal
36 use on a lot. He said that Attachment C indicates a revision to subparagraph 4.3.1E. He said that the
37 revision makes it clear that a SMALL WIND TURBINE TOWER can go up to 200 feet in height. He
38 said that Attachment D includes a revision to Section 5.2 indicating the insertion of BIG WIND
39 TURBINE TOWER (1-3 BIG WIND TURBINE TOWERS) in the Table of Principal Uses and adds a
40 footnote 17 which indicates that a BIG WIND TURBINE TOWER must be located on the same
41 property as another principal use for the purpose of producing electrical energy that shall primarily be
42 used onsite by that other principal use. He noted that this revision makes it part of the use description
43 therefore it is not subject to a variance. He said that Attachment E indicates the requirements for a BIG
44 WIND TURBINE TOWER and they remain unchanged. He said that Attachment F indicates changes to

1 subsection 7.7. He said that after the last meeting it is staff's understanding that the Board was inclined
2 to allow SMALL WIND TURBINE TOWERS to be 200 feet tall provided the necessary requirements
3 are met. He said that a new 7.7.B.6 was added indicating the following: the above limits on maximum
4 allowable height notwithstanding, the maximum height of a SMALL WIND TURBINE TOWER on a
5 LOT in a subdivision shall not exceed 75% of the minimum required AVERAGE LOT WIDTH when
6 any adjacent and bordering LOT is vacant. He said that once there are no more vacant lots in a
7 subdivision the height could be as it is described in paragraph B. He said that 7.7.C refers to rotor
8 diameters and for a rotor diameter greater than 24 feet staff has introduced a factor that requires greater
9 separation. He said that at the last hearing the Board was interested in providing for larger rotor
10 diameters and the size of the property was discussed. He said that after reviewing some of the concerns
11 raised by the City of Champaign's staff regarding shadow flicker it occurred to him that perhaps staff
12 was not being careful enough with shadow flicker created by the larger small wind rotors. He said that
13 revised 7.7C.3 proposes a separation distance of 8.3 times the rotor diameter therefore a 75 feet diameter
14 rotor would have to be 622.5 feet away from the nearest dwelling on other land. He said that he is
15 unhappy that the increase in distance is not proportional to the increase in rotor area but if it is made
16 proportional to rotor area the separation becomes 2,000 feet which is almost twice as much as that
17 required for a wind farm turbine. He said that staff has no way to analyze shadow flicker although there
18 is a tool available on the internet which generates a map but staff has not been able to get the program to
19 work with the County's network.

20
21 Mr. Hall stated that staff relocated some items to create a better ordinance and reduce review issues in
22 the office. He said that the text from Paragraph 7.7.F was moved to Paragraph 7.7.B.2. He said that a
23 new item 7.7.N.1 was added to indicate the removal of climbing rungs, if possible, to a height of 12 feet,
24 provided that the SMALL WIND TURBINE TOWER is unclimbable without the rungs. He said that
25 Item 7.7.P was revised to indicate derelict rather than inoperable and or/not in operation. He said that
26 Item 7.7.Q was revised to remove the extensive requirements regarding identification of possible EMI
27 effects and replaced with new Item 7.7Q.1 indicating that all wind turbines shall comply with the FCC
28 requirements for EMI including FCC Part 15 and new Item 7.7.Q.2 indicates that metal blades shall not
29 be used. He said that later in the meeting he will discuss an additional change to Item 7.7.Q. included in
30 the October 15, 2009, Supplemental Memorandum. He said that the way that the October 9th memo
31 went out to the Board it made it clear that there should not be any significant electromagnetic
32 interference which has a clear implication of an obligation on the County's part if there was interference.
33 He said that he agrees with the Board's discussion at the previous hearing that this is such a difficult
34 situation and if the County can possibly stay out of those types of disagreements the better off the
35 County will be. He said that Item 7.7.R. requires that someone retrofitting a replacement turbine on an
36 old tower has to insure that the tower is safe and complies with all manufacturer's safety
37 recommendations and requirements.

38
39 Mr. Hall stated that Attachment G indicates revisions to subparagraph 9.3.1D.H. and 9.3.1.D.I regarding
40 fees. He said that the fee for a BIG WIND TURBINE TOWER is the same as for a WIND FARM
41 TOWER because the amount of work is almost the same. He said that when almost as much work is
42 done for a wind farm as on one wind turbine tower it could be argued that the fee should be higher for a
43 BIG WIND TURBINE TOWER. He said that the fees for SMALL WIND TURBINE TOWERS are a
44 little more than twice what they are currently for just plain towers but the amount of work that is

1 required in approving SMALL WIND TURBINE TOWERS is two or three times as much as what is
 2 currently done. He said that a fee of \$700 for a SMALL WIND TURBINE TOWER that is 200 feet in
 3 height appears to be fairly high but in comparison to the cost of such a wind turbine the fee is
 4 reasonable. He said that the County Board established a minimum fee of \$20,000 for a WIND FARM
 5 TURBINE TOWER so that enough money was collected to pay for any consultants that were needed for
 6 review of the application and staff time. He said that a BIG WIND TURBINE TOWER is going to be a
 7 significant public hearing which will require a lot of effort and by definition there can be no more than
 8 three therefore he proposed a fee of \$3,300 per turbine and if the maximum of three turbines is proposed
 9 then the fee would be \$9,900. He said that if three turbines are proposed which do not meet the
 10 definition of small or big then the request would be considered a wind farm and the minimum fee is
 11 \$20,000. He said that, not to bias the Board, he included an attachment to the October 9, 2009,
 12 Supplemental Memorandum from the American Wind Energy Association which discusses issues with
 13 wind turbines. He said that he also included as an attachment to the October 9, 2009, Supplemental
 14 Memorandum an article from Windustry, a pro wind industry website, discussing community wind. He
 15 said that if the Board could read all of the articles available on the web regarding community wind the
 16 Board might begin to think that they are different than a wind farm but in fact all they are is a wind farm
 17 and under the County's Ordinance they would have the same effects as a wind farm.

18
 19 Mr. Hall stated that after the October 9, 2009, Supplemental Memorandum went out in the mailing he
 20 received a call from an interested observer who was concerned if enough care was being taken with the
 21 big and small wind. He said that Attachment A of the October 15th Supplemental Memorandum
 22 indicates additional changes to subsection 7.7. He said that Item 7.7.B.4. indicates a height limit of up
 23 to 150 feet on any lot with less than three acres of lot area and 7.7.B.5. indicates a height limit of more
 24 than 150 feet and up to 200 feet on any lot with at least three acres of lot area and provided that the
 25 SMALL WIND TURBINE TOWER is no closer than the following minimum distances from any airport
 26 or heliport that is either available for public use and listed in the FAA Directory of the current Airman's
 27 Information Manual or that is under construction and on file with the FAA and indicated for public use:
 28 (a) no closer than 4 miles to the nearest point of the nearest runway of any airport; and (b) no closer than
 29 5,000 feet to the nearest point of the nearest landing and takeoff area of any heliport. He said that the
 30 FAA standard is not 4 miles but is 20,000 feet and he believes that it is reasonable to round the 20,000
 31 feet to 4 miles because standard sections of the zoning map are one mile.

32
 33 Mr. Hall stated that he included as attachments to the October 15, 2009, Supplemental Memorandum the
 34 relevant FAA standards plus a printout from their online directory of airports. He said that there are four
 35 airports in Champaign County and they are as follows: U of I Willard, Frasca Field, Rantoul National
 36 Aviation Center, and Homer Airport. He said that this does not apply to RLA's or residential airports
 37 but does apply to airport and heliports and there are no heliports in Champaign County that he is aware
 38 of. He said that it does apply to any airport or heliport outside of Champaign County which is within 4
 39 miles or the 5,000 foot mile radius in our jurisdiction.

40
 41 Mr. Hall stated that renumbered paragraph 7.7.I. should be modified to indicate the following: SMALL
 42 WIND TURBINE TOWERS shall comply with all applicable regulations of the FAA. Evidence of FAA
 43 approval shall be required for any SMALL WIND TURBINE TOWER taller than 150 feet when it is
 44 within four miles of an airport.

1
2 Mr. Hall stated that also included as an attachment to the October 9, 2009, Supplemental Memorandum
3 is a copy of the *2007 Wind Turbine Buyer's Guide*. He said that he included the buyer's guide because
4 it has rated RPM's of selected turbine units from 1,000 rpm's to 50 rpm's. He said that 50 rpm's are for
5 the larger end units such as the Vestas V-17 with a 56 foot diameter rotor. He said that regarding the
6 concern about shadow flicker it is his understanding that what influences shadow flicker is the diameter
7 and height of the rotor, speed of the rotor, and sun angle. He said that the high end of small wind
8 appears to have the same rpm ratings as wind farm turbines. He said that 75 feet is approximately one-
9 quarter as large as the rotor on a wind farm tower and 330 feet is the high end of standard wind farm
10 towers therefore a small wind tower is much smaller. He said that it could be no more than 200 feet
11 high which is about one-half the height of a contemporary wind farm turbine therefore in regards to the
12 three physical things that the Board has control over, height and diameter would be much smaller than a
13 wind farm tower but it would have the same speed. He said that he still does not know what that means
14 in terms of shadow flicker and he does not know if the separation based on the 8.3 factor is enough
15 separation and he has no way to analyze it. He said that he suggested in the cover memo that the Board
16 may want to increase the factor from 8.3 to a greater number. He said that if the Board increased the 8.3
17 by 50% up to a factor of 12.5 a 75 foot diameter rotor would require a separation of 937 feet which is
18 what the model ordinance requires for wind farms but is still less than the 1,200 feet that the County
19 requires for a wind farm turbine.
20

21 Mr. Hall stated that original paragraph 7.7.I. had been stricken which discussed the installation of safety
22 balls on guy cables. He said that the draft that went out in the mail included the original paragraph 7.7.I
23 but after more thought he decided to strike the original paragraph. He said that the Board may decide to
24 retain original paragraph 7.7.I. but if it is kept the Board needs to provide better guidance on where the
25 safety balls would go. He said that Bill Fabian testified at the last hearing and raised the issue that he
26 was unclear if guy cables on a small turbine could accommodate safety balls. He said that the
27 attachment that went out in the mail indicated that Ecoenergy uses a combination of safety balls, high
28 visibility flags and high visibility sleeves on their met towers. He said that a met tower does not have a
29 turbine sitting on top of it therefore making it more difficult to see and it has more guy cables than what
30 a small wind turbine would making it more of a hazard for aircraft.
31

32 Mr. Hall stated that renumbered paragraph 7.7.P. indicates that if the wind turbine is FCC compliant and
33 there are no metal blades then by definition there could be no significant interference.
34

35 Mr. Hall stated that attached to the October 15, 2009, Supplemental Memorandum are three attachments
36 regarding net metering. He said that Eric McKeever, representative for Arends Brothers, gave good
37 testimony at a previous public hearing as to what net metering is and some people might wonder why
38 large diameter rotors would be needed because the net metering allowance is only up to 40 kilowatts.
39 He said that the Endurance 35 kilowatt unit had a rotor diameter of 69 feet therefore even units below
40 the net metering threshold require large diameters. He said that, according to Mr. McKeever's
41 testimony, if you are not in the area served by Ameren or ComEd but are in a co-op then net metering
42 does not apply although if you are a big energy user there maybe some incentive to get bigger than 40
43 kilowatts and still be small wind. He said the last attachment is a handout submitted by Eric McKeever
44 at a public hearing.

1
2 Mr. Hall stated that the Preliminary Draft Summary of Evidence is not complete but if the Board is
3 happy with one of the versions that is before them then the case is ready for final action. He said that
4 the Chair of ELUC informed him that ELUC will be so busy in November that even if the Board takes
5 final action tonight ELUC will not review it in November. He said that no requests or applications have
6 been received for small wind turbines and perhaps that is because people are holding off until this case is
7 finalized.
8
9 Mr. Palmgren stated the Mr. Hall previously indicated that staff would confer with the City of
10 Champaign and the City of Urbana to see what they were going to do with wind units.
11
12 Mr. Hall stated that staff had one meeting with the City of Champaign and the City of Urbana and it is
13 very clear that the County is going to be less restrictive than what either of those two entities will
14 require. He said that Urbana is genuinely trying to put forth a good effort to make sure that they are as
15 liberal as possible in their unincorporated ETJ in developing different standards but as far as he can tell
16 Champaign is not trying to establish different standards.
17
18 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.
19
20 Mr. Bluhm called Mr. Phillip Geil to testify.
21
22 Mr. Phillip Geil, who resides at 2060B CR 125E, Mahomet stated that he has a wind turbine and he
23 believes that the current version of the ordinance is well written and he has no objections. He said that
24 although he is agriculture and is not affected he is concerned about the size of the permit fee.
25
26 Mr. Bluhm asked the Board if there were any questions for Mr. Geil and there were none.
27
28 Mr. Bluhm asked if staff had any questions for Mr. Geil and there were none.
29
30 Mr. Bluhm called Mr. Herb Schildt to testify.
31
32 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet stated that he is the Chairman of the
33 Newcomb Township Planning Commission and noted that they only received the updated copy of the
34 proposed ordinance a couple days prior to their last Monday meeting; therefore, it is still under review
35 with the commission.
36
37 Mr. Schildt stated that he would now speak personally. He said that he was impressed with the
38 information included in the packet and felt that a lot of improvements had been made. He said that there
39 were three things that did cause concern and made him very uncomfortable and one of those things was
40 the change for the electromagnetic interference. He said that it has been frustrating to work through this
41 in his own mind because he does understand what Mr. Hall has said and he does not see the County
42 being able to rationally put itself in an enforcement position but yet it could be a serious issue. He said
43 that he does tend to agree with Mr. Hall in that the County should not enforce this issue but the new
44 language raises a separate issue in his mind and he does not believe that it was intended. He said that if

1 he was to write renumbered paragraph 7.7.P. he would add the following text at the end: for the
2 purposes of this Ordinance. He said that someone who would come in to apply for a small wind turbine
3 would not believe that somehow they magically complied with every conceivable regulation.
4

5 Mr. Schildt stated that another issue that he has been wrestling with is the tower height and the rotor
6 diameter and where small wind changes to big wind or medium wind. He said that when he thinks about
7 a 200 feet tower with a 75 feet rotor he could imagine many situations where that would be good and
8 fine without a problem but he could also imagine situations where even though it would technically meet
9 the setbacks it could have a significant impact on property values or quality of life for adjacent
10 landowners. He said that he has tried to determine what would be a safe rotor diameter or height and he
11 could not confidently come up with either one. He said that the current maximum height for an antenna
12 tower is 100 feet therefore he would say that any wind turbine up to 100 feet in height with a 24 feet or
13 smaller rotor diameter would be "by-right" but anything over 100 feet in height and a rotor diameter of
14 25 feet to 75 feet would require a special use permit. He said that by requiring a special use permit the
15 County would have the ability to judge those cases where perhaps a 200 feet tower is not appropriate
16 and it would give adjoining landowners the opportunity to protest the request. He said that he could
17 imagine situations where a 200 feet tower would be fine but he could also imagine situations where it is
18 not and it would get the County out of the situation of deciding when small wind becomes big wind. He
19 requested that the Board consider his proposal.
20

21 Mr. Bluhm asked the Board if there were any questions for Mr. Schildt and there were none.
22

23 Mr. Bluhm asked if staff had any questions for Mr. Schildt.
24

25 Mr. Hall asked Mr. Schildt if he believes that anything over 100 feet in height, regardless of rotor
26 diameter, should be a special use permit.
27

28 Mr. Schildt stated yes. He said that the special use permit should be triggered if the height is over 100
29 feet or if the rotor diameter is over 24 feet or if it is over and greater than both because it is outside the
30 norm that the ordinance currently has in terms of height. He said that he thinks of Mr. Geil's turbine and
31 others in the area and their rotational speeds and he does not know anyone who is not fascinated by
32 small wind therefore those folks should be enabled to put up a small wind turbine without a lot of red
33 tape but when the turbines start getting bigger then the effects go past the property line.
34

35 Mr. Hall stated that even though the way the ordinance is written currently the height is limited by how
36 close the neighbor's dwelling is located to the turbine.
37

38 Mr. Schildt stated that the setbacks that are currently in the ordinance should not be altered or increased
39 but his proposal should be in lieu of the setbacks. He said that if you are not the person who is
40 interested in installing small wind at least you would know that it can't be any closer to you than that.
41 He said that perhaps there is someone who has enough acreage to install a Vestas V-17 but the impacts
42 could be great if they are close to either a park, cluster of houses, or rural specialty business. He said
43 that a special use permit allows both sides to weigh in as the Board decides on a case by case basis and
44 because the expense is so great he doubts that there will be a lot of these cases.

1
2 Mr. Hall stated that staff does know that there are plenty of good reasons why 100 feet is not adequate
3 and asked Mr. Schildt if he still believes that a special use permit is necessary.
4
5 Mr. Schildt stated that if he was writing the ordinance he would write it at 100 feet. He said that he
6 perfectly understands what Mr. McKeever and Mr. Geil discussed about the additional allowance of
7 height but is it the neighbor's obligation to suffer a loss of quality of life so that someone else can have a
8 little more wind. He said that the ordinance allows 100 feet already therefore there could be the
9 expectation that a neighbor could install a 100 feet tower.
10
11 Mr. Hall stated that he assumes that Mr. Schildt is skeptical that staff could ever identify these
12 separations that would actually be adequate.
13
14 Mr. Schildt stated that he is skeptical only because he could imagine situations in both directions. He
15 could imagine separations that would be perfectly adequate and separations that would be inadequate.
16 He said that the implementation of the special use permit would allow neighbors to give input and argue
17 the case and ultimately the Board can decide who is right. He said that the special use permit process is
18 not unreasonable when someone is putting up a structure that is that large and could affect so many
19 people beyond the boundaries of the property line.
20
21 Mr. Hall stated that the cost of the Vestas V-17 installed is \$180,000.
22
23 Mr. Schildt stated that there are people in Newcomb Township that could probably afford such a
24 structure.
25
26 Mr. Geil requested the opportunity to return to the witness stand.
27
28 Mr. Bluhm allowed Mr. Geil to return to the witness stand.
29
30 Mr. Geil stated that he wouldn't be concerned if the ordinance was written at 150 feet but is concerned
31 about 100 feet because it includes the distance to the tip of the blade as well. He said that on his tower,
32 which he could only purchase in tower sections 20 feet long, and his blade is 11 feet long he would be
33 limited to an 80 feet tower plus the turbine on top and that is too low to be productive. He said that he
34 should have had a 120 feet tower plus the 11 feet which would have put it up to 131 feet in total height.
35 He said that he could not see anyone putting in one of the Vestas V-17 turbines due to the cost and if
36 someone has that much money then they should install a solar system because it is half the price and
37 supplies more electricity.
38
39 Mr. Bluhm asked Mr. Geil to indicate the height of his tower.
40
41 Mr. Geil stated that his tower is 100 feet with the turbine on top of that therefore he is actually 115 feet.
42
43 Mr. Hall reminded the Board that they could easily decide that there is enough justification for a special
44 use permit for anything over 150 feet but if the Board feels that the separations of 175 feet or 200 feet

1 are adequate then public hearings should not be held if they are not truly necessary.

2
3 Mr. Bluhm called Mr. Steve Burdin to testify.

4
5 Mr. Steve Burdin, who resides at 2527 CR 455E, Mahomet submitted a prepared statement as a
6 Document of Record. Mr. Burdin stated that before he read his prepared statement he wanted to address
7 Mr. Hall’s comments regarding rpm’s and how some of the smaller units go down to 50 rpm’s. He said
8 that in September, 2008, he took a tour of the Twin Groves Wind Farm and his notes indicate that the
9 rotation of those turbines was 18 rpm’s, although he is going to round it to 20 rpm’s to make
10 calculations easier. He said that there are three blades on each turbine therefore there will be 60 passes
11 per minute, one per second and divided by three is about 20 seconds for every blade to go around.

12
13 Mr. Burdin stated that his analogy from the July 16, 2009, public hearing was not properly reproduced in
14 regard to interference with communications. He said that the image that he tried to create was that if
15 you hold a toothpick at arm’s length how much does it block your vision of something beyond. He said
16 that he would like to comment on the Supplemental Memorandum dated October 9, 2009. He said
17 Attachment A. includes the definitions of small and big wind towers and the paragraphs still mention the
18 use or primary use of the power that is generated from the turbines. He said that if he were reading this
19 text with an eye toward putting up a turbine he would be compelled to ask a few questions. He asked
20 how anyone would be able to determine whether the majority of power is consumed on site or if it is
21 placed onto the grid. He said that considering the varying power demand of any landowner at different
22 times of the day and the differing wind conditions it appears that it will be very hard to tell. He said that
23 given the varying conditions what time period (sampling period) will be used to determine whether the
24 “majority” is consumed instead of placed onto the grid. He asked what are the criteria that would be
25 used for proving that that this land use should be allowed. He said that it might be easier to simply
26 define the use of a turbine as “to generate electrical energy” because he is not sure that the County wants
27 to regulate, through the Ordinance, as to how the electricity is to be used.

28
29 Mr. Burdin stated that he finds that the use of terms such as “to much lesser extent” as ambiguous at best
30 in order to describe the relationship between the majority and the minority. He asked if the Ordinance is
31 being written to be clear or to defer assessment to a later time, person or authority that’s undefined at the
32 moment. He said that Attachment F, Paragraph B.2. discusses the setback from transmission lines. He
33 said that he would presume that this text is referring to the above ground third party electrical
34 transmission lines and he just mentioned this in case the Board deems it useful to have this clarification.
35 He said that in regard to Attachment F, he was glad to see that the electromagnetic noise paragraphs had
36 been stricken. He said that it seems that it is not useful to protect, by the Ordinance, against effects
37 whose likelihood is vanishingly, small, as in the case of electromagnetic interference with
38 communications.

39
40 Mr., Burdin stated that Attachment I, Section vi, refers to lightning strikes. He said that the description
41 in the second paragraph is technically accurate and, with respect to small wind, turbines are indeed not
42 more likely to be struck by lightning due to the reasons given. He said that even considering their
43 height, they are less susceptible to strikes than trees. He said that the protection devices mentioned in
44 the third paragraph are slightly dated but are correct and are routinely and effectively used for transient

1 voltage suppression, including lightning protection.
2

3 Mr. Burdin stated that he has had time to think about this since the last meeting and he would ask the
4 Board to reconsider a prohibition of homemade units. He said that it's difficult to predict where the next
5 improvements to turbines may come from and who is to say that it wouldn't come from a home-based
6 inventor. He said that the County should not stifle development and creativity and the ordinance should
7 not prohibit someone from erecting a turbine on their property and possibility having it fail or fall
8 because this could happen to commercially manufactured systems as well. He said that the function of
9 the ordinance is to require some baseline of quality and to protect others from this activity and the
10 proposed ordinance will accomplish this. He said that as homeowners we all have a responsibility to our
11 neighbors and we incur liability if we cause damage to their property. He said that there is a mechanism
12 in place in our society that takes care of this but it is not done by the County. He suggested that we
13 leave this to the liability folks, insurance companies and attorneys, and not mandate it by the County.
14

15 Mr. Burdin stated that he would like to briefly mention tower collapse because he is in favor of
16 reasonable setbacks. He said that it is unlikely that towers would fall like trees and to say that if a tower
17 were to topple, pivoting at the bottom, he would not think that it's likely that it can stay structurally
18 intact because it would probably buckle and fold. He said that towers that are guyed are constrained
19 from falling over like this unless the guy wires fail. He said that he does not think that the towers are
20 designed to support the weight of a turbine on one end while they're horizontal or off vertical although
21 he is not an expert in this area but folks who know about the towers could be posed the question. He
22 said that this information could provide guidance for setbacks, safety margins and the like.
23

24 Mr. Burdin stated that lest any of us be bold enough to think that there's little or no chance for design
25 improvements a couple of things should be noted. He said that modern vertical axis turbines work in
26 light wind and are actually better in turbulent rather than low wind and they are bird friendly because
27 they appear as a solid cylinder and the birds do not fly into them. He said that more recently a chemical
28 engineer, who moonlights as a wind energy consultant, has recently developed a new turbine design
29 which works down to a wind speed of two miles per hour and it is very quiet. He said that this new
30 turbine design is being developed and marketed by a Honeywell company and he has attached
31 references to this document.
32

33 Mr. Bluhm asked the Board if there were any questions for Mr. Burdin and there were none.
34

35 Mr. Bluhm asked if staff had any questions for Mr. Burdin.
36

37 Mr. Hall stated that he would not propose any changes but he does agree with Mr. Burdin's comments
38 regarding the definitions. He said that the intention for small and big wind is that these things that are
39 part of a larger development. He said that the energy that is produced by these units has to go through
40 the dwelling before it gets to the grid therefore perhaps some description of that connection would be a
41 better way than worrying about how much energy is used on site. He asked Mr. Burdin if he could
42 provide such a description.
43

44 Mr. Burdin stated that he could provide such a description. He said that it is reasonably basic and as the

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1 Ordinance indicates the landowner will have to coordinate with the utility provider to make sure that the
2 power is appropriate to be placed on the grid and an inverter and other hardware will be required. He
3 said that he will construct the appropriate description and submit it to staff for review.
4

5 Mr. Bluhm asked the Board if there were any questions for Mr. Burdin and there were none.
6

7 Mr. Schildt requested the opportunity to return to the witness stand.
8

9 Mr. Bluhm allowed Mr. Schildt to return to the witness stand.
10

11 Mr. Schildt stated that he always appreciates Mr. Burdin's expertise at the meetings. He said that Mr.
12 Burdin is correct in that the Vestas V-80 is about 18 rpm's but this unit is one of the first turbines used
13 on a large scale in the wind farm developments. He said that in regard to Attachment I, it is his opinion
14 that small wind, anything less than 24 feet in diameter, will turn quickly and cause less shadow flicker.
15 He said that lightning strikes are a real issue on turbines and those strikes regularly damage the blade
16 tips on the turbines located in McLean County. He said that if you visit the Twin Groves Wind Farm
17 you will hear a whistle type sound which is caused by a blade that has been damaged by lightning and
18 requires replacement. He said that icing is not an issue on a 12 foot rotor but it is an issue on a 75 foot
19 rotor therefore he would argue that some of the information in Attachment I is not applicable to the
20 larger turbines and he would still argue for special use permit approval.
21

22 Mr. Geil clarified that if the unit is grid tied the electricity has to go through the homeowner's meter and
23 their system.
24

25 Mr. Bluhm called Mr. Ben McCall to testify.
26

27 Mr. Ben McCall, who resides at 1085 CR 2200N, Champaign stated that there have been a lot of great
28 improvements in the current draft. He said that as someone who is considering purchasing one or more
29 small wind turbines he has two concerns. He said that the size of the fee that has been proposed is at a
30 level that does not encourage people to install small wind turbines and this is a use that should be
31 encouraged rather than discouraged in our society. He said that he is concerned about the limitation,
32 under any circumstance, of only being allowed two small wind turbines on a property yet that same
33 someone would be allowed to have three big wind turbines with a special use permit. He said that this is
34 an issue which may need to be reconsidered due to the new developments in small wind turbines in that
35 someone might want to have ten small units on 30 foot towers.
36

37 Mr. Hall stated that someone could request to have more than two small wind turbines located on their
38 property through the variance process. He said that the petitioner would be required to submit a noise
39 study to deal with the combined effects of 10 small wind turbines on one property.
40

41 Mr. McCall stated that if he desired to have three 100 foot towers he would also need to request a
42 variance.
43

44 Mr. Hall stated yes. He said that Mr. Schildt has concerns as to whether the separation distances are

1 accurate and he believes that a special use permit should be required. He said that he has suggested to
2 the Board that they may not have to worry about that in the context of multiple units until there are more
3 than two units on one property. He said that he does not want the Board to believe that three units can
4 be constructed on a property and never have a problem.

5
6 Mr. Bluhm informed Mr. McCall that there is a mechanism in place, the variance process, in order to
7 request more than two small wind turbines on a property but that process is done through the Board and
8 is not "by-right."

9
10 Mr. Hall stated that each time he attends a County Board committee meeting it is impressed upon him
11 that the County does not have the resources to encourage small wind and the County needs to recoup all
12 of its expenses and he is fairly confident that the fees will accomplish that goal.

13
14 Mr. McCall stated that it is his understanding that the Federal government has a 30% tax credit for small
15 wind but the State of Illinois does not have such an incentive.

16
17 Mr. Courson stated that he believes that the State of Illinois does have an incentive for small wind.

18
19 Mr. McCall stated that the State of Illinois did have one at one time but due to the budget crisis the
20 incentive has been lost.

21
22 Mr. Thorsland stated that technology is rapidly changing and as Mr. McCall stated there may be a
23 request for more than two small wind turbines on one property therefore perhaps a height threshold
24 should be considered so that someone could place as many small wind turbines on one property as
25 desired. He said that the Board should consider the durability of the Ordinance as technology changes.
26 He said that there is a possibility that technology will produce a very small productive unit and someone
27 may want to place more than two of those units on their land for energy production. He said that
28 perhaps the variance process will take care of such a request but it is also possible that it will not.

29
30 Mr. Hall stated that he thought the elimination of all references to kilowatt ratings was a fantastic
31 development.

32
33 Mr. Thorsland stated that it was a great development.

34
35 Mr. Hall stated that one strength and weakness of the Ordinance is that the rotor diameter is equated to
36 something that is very durable, height of the accessory structures based on the size of the property, and
37 more than the 200 feet height clearly requires a special use permit each and every time.

38
39 Mr. Thorsland stated that realistically the possibility of a request for a Vestas turbine on private property
40 is very limited in Champaign County unless it is someone who is very wealthy. He said that the County
41 is more than likely going to see the small wind turbines and limiting to two maybe the one thing that
42 becomes very problematic without a variance.

43
44 Mr. Bluhm stated that if numerous variances are requested for more than two small turbines on any one

1 property then the Ordinance can be revisited and amended at that time. He said that if new technology
2 indicates that many variances are being requested for more than two small wind turbines on 40 feet
3 poles then perhaps the Ordinance should change because technology has changed.
4

5 Mr. Hall stated that perhaps we will find out that there is no concern regarding noise regardless of how
6 many small wind turbines are placed on a property but until we have a way to analyze noise the
7 Ordinance should probably stay as proposed.
8

9 Mr. Thorsland stated that after attending the ELUC meeting on Monday night it would not be beneficial
10 to take final action at this time. He said that he is comfortable with the Ordinance as it is currently
11 written.
12

13 Mr. Bluhm stated that it was implied that the definitions require further revision.
14

15 Mr. Hall stated that he would be happy to work with Mr. Burdin regarding the definition and remove
16 any ambiguities. He said that Mr. Schildt's suggestion regarding 7.7.P. is a good change because he
17 does not want people to believe that they do not need to worry about FCC regulations if they meet our
18 Ordinance.
19

20 Mr. Bluhm requested the Board's preference regarding a requirement of a special use permit for any unit
21 over 150 feet in total height.
22

23 Mr. Hall stated that the whole reason that the Board has reviewed this case in the last four meetings is to
24 relieve the private sector from the 100 feet limit that is in the current Ordinance and documented proof
25 has been received to indicate that the 100 feet height is inadequate. He said that the evidence does not
26 support requiring a special use permit for anything over 100 feet and the evidence is much more
27 supportive for anything up to 150 feet provided that the Board is comfortable with the primary
28 determinant being the distance to the nearest adjacent dwelling or principal building or structure. He
29 said that if the Board is comfortable with that then we will be the only County with such rules and this
30 would be a tremendous freeing up of the rules even if a special use permit was required for anything
31 over 150 feet.
32

33 Mr. Bluhm requested the Board's comments for anything over 150 feet. He said that a unit which has a
34 height of 100-150 feet is covered under the ordinance but a unit which is within the 151-200 feet range
35 would require a special use.
36

37 Mr. Thorsland stated that the ordinance as written addresses the taller units and the expense would be a
38 limitation.
39

40 Mr. Courson stated that most of the small turbines would have a tilt-type base but a larger unit would
41 require guy wires and that would require a lot of land.
42

43 Mr. Thorsland stated that he believes that it will only be on a rare occasion that the County will see a
44 request for a private unit which is 151-200 feet in total height. He said that he also believes that

1 technology will reduce the required height for sufficient energy production and maintenance.

2
3 Mr. Bluhm stated that he believes that he also believes that requests for 151-200 feet private wind
4 towers will be far and few between therefore perhaps a special use permit would be appropriate so that
5 the request can be reviewed for placement.

6
7 Mr. Thorsland stated that a small wind turbine with a rotor diameter below 24 feet will not be placed on
8 a 151-200 feet tower.

9
10 Mr. Hall stated that the current ordinance would allow a 75 feet diameter rotor to be placed on up to a
11 200 feet tower, "by-right," if it meets all of the separation requirements.

12
13 Mr. Thorsland stated that such a tower would go on a large property that could meet all of the setbacks.

14
15 Mr. Hall stated that such a tower could go on a three-acre parcel but the Board could require a five-acre
16 parcel.

17
18 Ms. Capel stated that if her neighbor wanted to put a 200 feet tower on his five-acre lot she would like
19 him to have to go through the special use permit process because it would be pretty close to her house.
20 She said that it would make a significant difference at her home whereas if it were only 150 feet tall the
21 effect would be much smaller therefore even if such a request was a rare occasion it should be reviewed
22 and approved through the special use permit process.

23
24 Mr. Bluhm stated that some of the smaller rotors are at a 23.6 feet diameter therefore perhaps anything
25 over a 24 foot diameter should be considered under the special use permit process.

26
27 Mr. Courson stated that his personal wind turbine is a relatively small unit and is on a 40 feet tower. He
28 said that it is the only unit that he sees as being marketed to private homeowners other than the Whisper
29 100 and it is hardly worth placing on a home. He said that if someone is comparing the cost of such a
30 unit the Skystream 3.7 could be installed for around \$10,000.

31
32 Mr. Hall asked Mr. Courson what the overall height of a Skystream 3.7 would be.

33
34 Mr. Courson stated that the overall height would be around 52 feet.

35
36 Mr. Hall stated that the permit fee for such a unit would be \$100.00

37
38 Mr. Bluhm stated that Arends Brothers indicated that they have a 100 kilowatt turbine located at their
39 Ashmore store and they believed that they would sell some units of that type.

40
41 Mr. Hall stated that Arends Brothers has indicated that they have a residential customer interested in
42 purchasing the 100 feet unit.

43
44 Mr. Hall asked Mr. Courson if just because the turbine is bigger does not mean that it has to be higher.

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Mr. Courson stated that it depends on the wind resources at any particular location. He said that he has lowered his personal turbine from 80 feet to 40 feet and has received much better performance from his unit. He said that after lowering his unit he has noticed some shadow flicker but it is not bothersome.

Mr. Hall asked Mr. Courson to indicate the rotor diameter of his unit.

Mr. Courson stated that he has the Whisper 500 and it has a 15 feet diameter rotor.

Mr. Hall asked Mr. Courson if, as a ZBA member, he believes that shadow flicker should be a concern for an adjacent neighbor.

Mr. Courson stated that if the shadow flicker came through a neighbor's window and it could be bothersome but it wouldn't be anything that curtains or blinds could not remedy.

Mr. Hall asked Mr. Courson if he believes that shadow flicker may just be part of reality in 2009 and it is something that neighbor's just deal with.

Mr. Courson stated that there is always something that a neighbor could complain about whether it is car lights, noise, etc. He said that when he is in his bedroom at night he can see car lights traveling down the road through his bedroom windows.

Mr. Bluhm stated that some of the shadow flicker is not much different than car lights occasionally shining in a window.

Mr. Courson stated that he would not mind seeing a requirement of a special use permit for any unit over 150 feet in height. He said that he does not believe that there will be a lot of units over 150 feet because of the cost and when a cost analysis is done the winds are not feasible in this area for the unit that is being installed.

Mr. Hall asked if someone wanted to install a unit that is over 150 feet and the setbacks are adequate from their own property lines should the special use permit process be imposed on that person.

Mr. Bluhm stated that it is not known what the shadow flicker will be for that unit.

Mr. Courson stated that he would assume that the noise would be less from such a unit.

Mr. Thorsland stated that the effects on other people that do not desire to have a wind turbine and do not want to look at someone else's. He said that the Board carefully tries to weigh all of the pro's and con's of another house or three houses and the effects of those homes travels a much greater distance than any shadow flicker and noise created by a wind turbine. He said that there is no recourse for a person who is on a road that is on its way to a subdivision unless it is an RRO, which has a public hearing, but if it is a "by-right" lot then it is just how it is. He said that a wind turbine stands straight up in the air and everyone can see it but a house is just another house even though the overall impact of that house over

1 time is probably greater than the wind turbine. He said that the probability of everyone in rural
2 Champaign County putting up a 150 feet tower is unlikely therefore this issue should be weighed
3 carefully. He said that perhaps a special use permit should be allowed for a unit over 150 feet because it
4 would provide notice to adjacent landowners. He said that the Board is being very careful with the wind
5 issue because it is a very visible item but the Ordinance needs to be consistent with other things as to the
6 impact on the entire County.

7
8 Mr. Hall asked Mr. Courson if he is aware if the wind turbine manufacturer provides any data on
9 shadow flicker.

10
11 Mr. Courson stated no and he hadn't heard about shadow flicker until the public hearings began. He
12 said that the biggest thing that he has heard about is the concern about bird kills and noise. He said that
13 his turbine is a little noisy but he has never seen a dead bird at the foot of his tower.

14
15 Mr. Hall stated that if the Board desires to require special use permits for these structures he would
16 assume that shadow flicker and noise would be an issue and if these things are not an issue then what
17 would be an issue so that a special use permit would be required.

18
19 Mr. Bluhm stated that he would assume that there would be a lot more criteria required if someone had a
20 three acre parcel and all of the lots around them were also three acres and that landowner wanted to
21 install a 150 feet tower.

22
23 Mr. Thorsland stated that if someone wanted to put up a 151 feet tower then they would need to apply
24 for a special use permit once they went over three acres but it is a different story when it is farmer who
25 wants to put a tower up on his 200 acres parcel.

26
27 Mr. Hall clarified that a farmer on 200 acres would fall under the agricultural exemption.

28
29 Mr. Thorsland stated that someone who dried lumber in his shed in the woods and desired to install a
30 200 feet tower where no one would care would also be required to go through the special use permit
31 process. He said that maybe there is a subdivision which has ten houses within a one-quarter mile then
32 such a unit would trigger the special use permit process but it is not triggered if there is a density that is
33 lower.

34
35 Ms. Capel asked Mr. Hall if someone could obtain a variance for a tower that is 151-200 feet in overall
36 height.

37
38 Mr. Hall stated yes.

39
40 Ms. Capel stated that this would be less work than a special use permit but it would give the Board the
41 opportunity to review the placement.

42
43 Mr. Hall stated that a variance would make more sense and he does not know why the Ordinance was
44 written so that a special use permit is required for something that is taller because the Board is well

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ZBA

1 aware that the findings for a special use permit when it is something that only the homeowner is going to
2 use is very difficult. He said that he would argue that the standards, other than for public convenience,
3 are the same. He said that a variance could be required for a small wind unit that is over 150 feet but a
4 limit of 200 feet in height.

5
6 Mr. Thorsland stated that he agrees.

7
8 Mr. Hall asked the Board about rotor diameter.

9
10 Mr. Bluhm stated that perhaps the 151 feet but a limit of 200 feet should include the rotor diameter. He
11 asked Mr. Hall what the fee would be for a variance for such a unit.

12
13 Mr. Hall stated that the fee list needs to be updated. He asked the Board to comment on the separation
14 for rotor diameter that is greater than 24 feet and at a height of 150 feet.

15
16 Mr. Thorsland stated that the 150 feet limit would also limit the rotor size. He said that Mr. Courson has
17 a small wind turbine unit on a small tower and at a lower height it appears to work better.

18
19 Mr. Hall asked Mr. Knight if he had anything that required more guidance from the Board.

20
21 Mr. Knight stated no.

22
23 Mr. Bluhm asked Mr. Hall what would happen if a school district who does not have enough room or
24 land desired to put up a wind tower for their use at a different location. He asked if there would be
25 additional costs incurred because of the Vestas V-17 and the wires that must be run to the school.

26
27 Mr. Hall stated that if the turbine is close enough that they could interconnect and clearly prove that the
28 energy produced was only for the school then a joint lot development permit could be allowed. He said
29 that the problem is that many times the wiring becomes cost prohibitive. He said that if there is no
30 doubt that it is connected to the school, factory or village hall then language could be written to provide
31 for that situation but if it is not connected to it then it is a free standing wind turbine.

32
33 Mr. Bluhm stated that more than likely it will be a village or city giving permission to construct such a
34 unit because it will be within their ETJ.

35
36 Mr. Hall stated that probably the schools that are in the County's jurisdiction are surrounded by
37 farmland therefore hopefully they could connect directly to the school.

38
39 Mr. Bluhm asked the Board if there were any other changes or concerns for staff.

40
41 Mr. Hall stated that the Board had made progress which will require another meeting but it is also
42 significant in whittling out the more than 150 feet height that would require a special use permit which is
43 really a variance.

1 Mr. Bluhm asked the audience if anyone desired to sign the witness register to present testimony for
2 Case 634-AT-08, Part B. and there was no one.

3
4 Mr. Bluhm closed the witness register.

5
6 Mr. Bluhm requested a continuance date.

7
8 Mr. Hall stated that no application has been received for Case 542 on November 12th and frankly he
9 would rather leave as much room as possible for the case scheduled for October 29th.

10
11 **Mr. Thorsland moved, seconded by Mr. Courson to continue Case 634-AT-08, Part B. to**
12 **November 12, 2009. The motion carried by voice vote.**

13
14
15 **6. New Public Hearings**

16
17 None

18
19 **7. Staff Report**

20
21 Mr. Hall stated that the wind farm developer’s consultant has begun reviewing the County’s application
22 and he would imagine that this review will take through October. He said that the meetings that the
23 Board has set aside in January are still within the six week lead time. He said that he has not placed this
24 item on a ZBA agenda to date but he is arguing for ELUC to authorize money for a noise consultant for
25 the first wind farm application and he does not know how much luck he is having. He said that, if as a
26 ZBA member you feel that this review is necessary, it is important for ZBA members to discuss this
27 issue with their County Board members. He said that he has explained to ELUC that when a wind farm
28 application is received he cannot advise them about noise because he is not an acoustical expert which
29 also means he cannot advise the ZBA about noise. He said that three proposals have been received and
30 unless he is directed otherwise when a wind farm application is received he will obtain three estimates
31 for providing the noise review but at the October ELUC meeting he may be told that this will not be
32 necessary.

33
34 **8. Other Business**

35
36 None

37
38 **9. Audience Participation with respect to matters other than cases pending before the Board**

39
40 None

41
42 **10. Adjournment**

43
44 The meeting adjourned at 8:43 p.m.

10-15-09

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

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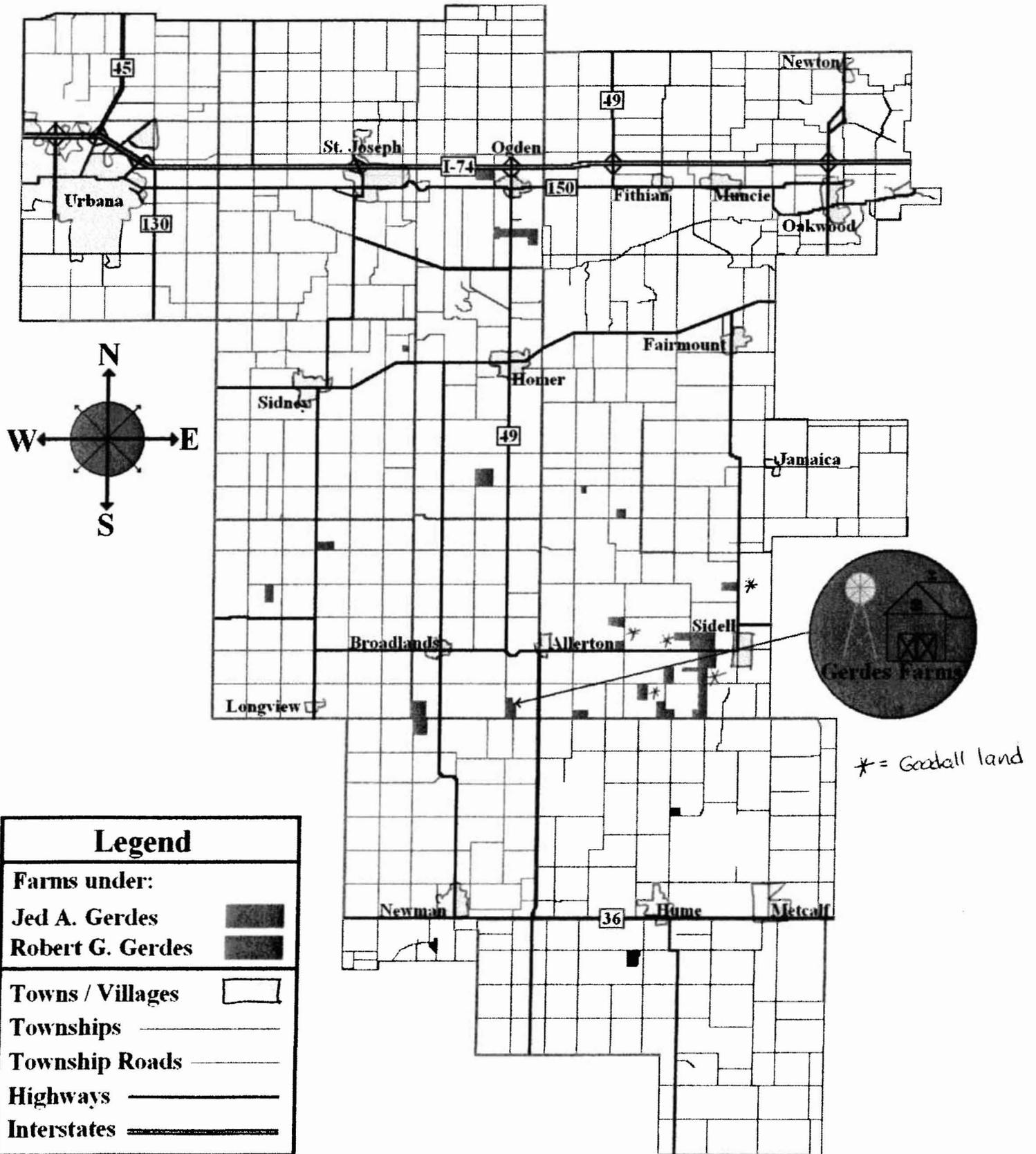
Respectfully submitted

Secretary of Zoning Board of Appeals

ANNOTATED

7/30/09
J.G.

GERDES FARM MAP

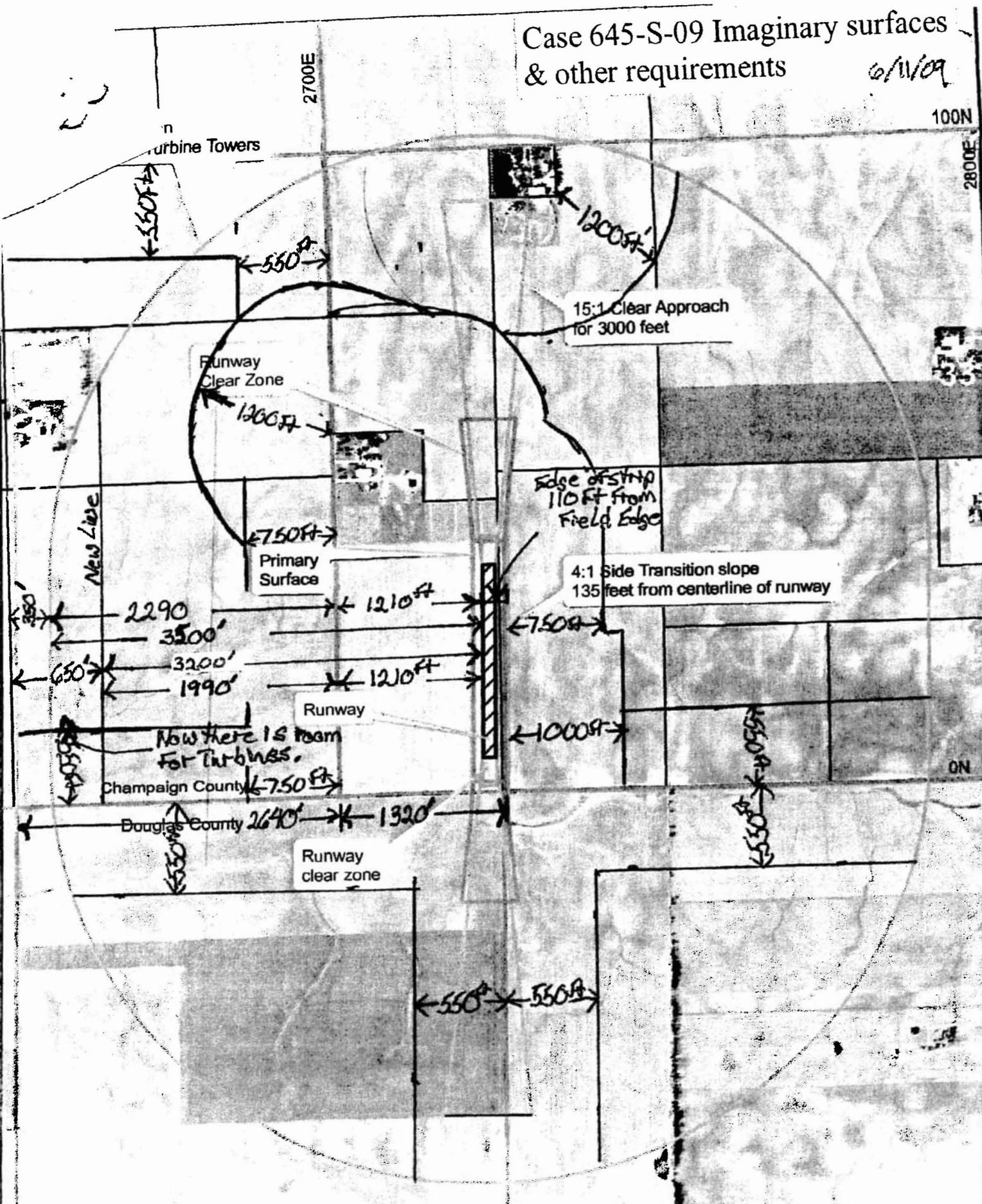


* = Goodall land

Legend	
Farms under:	
Jed A. Gerdes	
Robert G. Gerdes	
Towns / Villages	
Townships	
Township Roads	
Highways	
Interstates	

Case 645-S-09 Imaginary surfaces & other requirements

6/11/09



Red lines indicate requirements enforced by Champaign County
 Blue lines indicate requirements enforced by IDOT/DOA

1 inch = 1,000 feet

CASE NO. 645-S-09

SUPPLEMENTAL MEMORANDUM

November 25, 2009

Champaign
County
Department of



Petitioners: **Robert and Barbara Gerdes**

Request: **Authorize the construction and use of a "Restricted Landing Area" as a Special Use in the AG-1 Agriculture Zoning District**

Site Area: **approx. 83 acres**

Location: **An approximately 83 acre tract that is approximately the West Half of the Southwest Quarter of Section 33 of Ayers Township and commonly known as the farm at 52 CR 2700E, Broadlands.**

Time Schedule for Development:
Immediate

Prepared by: **J.R. Knight**
Associate Planner
John Hall
Zoning Administrator

Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708
FAX (217) 328-2426

STATUS

This is the third meeting for this case, it was continued from the July 30, 2009, ZBA meeting. Those minutes are included separately and are ready for approval.

As requested by the Board, the State's Attorney has submitted a memorandum reviewing the "necessary for public convenience" criterion. The memo is confidential but is briefly summarized below.

Since the last meeting staff has prepared additional information which has been inserted into the Summary of Evidence on pages 4, 8-10, and 12-13. A corrected diagram of all wind farm separations in the vicinity of the subject property will be available at the meeting.

In case the Board leans towards approval, two special conditions of approval have been included in the Summary of Evidence on page 19, and are reviewed below.

MEMORANDUM FROM STATE'S ATTORNEY

At their July 30, 2009, meeting the Zoning Board of Appeals (ZBA) requested some guidance from the State's Attorney regarding the Special Use Permit criteria which requires the proposed use to be "necessary for the public convenience at this location." The State's Attorney has prepared a memo that has been included with the packets for ZBA members and staff, but has not been included for common circulation because it is confidential information.

In general, the memo indicates that the petitioner must provide evidence that the community will gain some benefit from the proposed use, and that any decision made by the Board must be supported by the facts of the case. The State's Attorney did not provide guidance or evaluation on the sufficiency of any evidence.

ALTERNATIVES FOR THE BOARD

The Board appears to have the following alternatives depending upon how it interprets the available evidence:

- A. **Make the necessary findings of fact required to approve the RLA.** In this approach the Board would not hinder the RLA approval with speculation related to a wind farm. The Board should consider if any other special condition of approval is necessary for the proposed RLA at this location. None have been proposed at this time but any special condition of approval necessary for this alternative is probably also necessary under alternatives B and C.
- B. **Make the necessary findings of fact required to approve the RLA with a condition that the approval is contingent upon no wind farm turbine tower being located within 3,500 feet of the runway.** In this approach the Board would approve the RLA but require that if a wind farm is developed that no wind farm turbine tower be located within 3,500 feet of the runway. This condition is simple enough to draft at the hearing if required.
- C. **Make the necessary findings of fact required to approve the RLA and include conditions that will minimize the economic impact on neighbors and ensure minimal public safety in the event that a wind farm is developed.** In this approach the Board would approve the RLA but include conditions that would minimize the economic impact on neighbors and provide adequate safety if a wind farm is developed in the future. Draft conditions are proposed below.
- D. **Make the necessary findings of fact required to deny the RLA.** In this approach the Board would determine that this is not a suitable location for the proposed RLA and that no special condition could be imposed upon the petitioner to make the location suitable.

HARMONY WITH GENERAL PURPOSE AND INTENT OF THE ZONING ORDINANCE

Item 10 of the Summary of Evidence reviews relevant evidence regarding whether the proposed RLA is in harmony with the general purpose and intent of the Zoning Ordinance. Ensuring public safety is a basic purpose of the Zoning Ordinance and items 10.C.(1) and 10.C.(5) refer to paragraphs in the Zoning Ordinance where safety is mentioned as a purpose and are included below:

- 10.C.(1) Paragraph 2.0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.
- 10.C.(5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.

The Board should adopt evidence related to each of these items. Draft evidence for both of these items is proposed below and requires the Board to make a choice which is indicated in bold italics:

The proposed RLA *{ with the special conditions will provide adequate safety / will not provide adequate safety due to the inability to ensure adequate separation from a proposed wind farm in Douglas County and within one and one half miles of the Village of Allerton }.*

PROPOSED SPECIAL CONDITIONS OF APPROVAL FOR ALTERNATIVE C

It is not clear at this time which evidence the Board will find most compelling, but in case the Board leans toward approval of the RLA as explained in Alternative C the following conditions are proposed to minimize impact on the neighbors and maximize safety:

- The applicant is not a pilot and does not have a plane and does not plan to use the proposed RLA for recreational flying. The proposed RLA is intended to be used for the applicant's agricultural aerial applicator (and other agricultural aerial applicators) in servicing the surrounding farmland. Agricultural aerial applicators increasingly have to navigate around wind farms in conducting their aerial applications. The following special condition will ensure that the proposed RLA is used primarily only by agricultural aerial applicators:

The proposed RLA may only be used by agricultural aerial applicators except as may be necessary for emergency landings when it may be used by anyone.

The condition above is necessary to ensure that:

The proposed RLA is principally used by skilled agricultural aerial applicators.

- In the event that a wind farm is developed around the proposed RLA, requiring the RLA wind farm separation required by the Champaign County Zoning Ordinance would only serve to prevent the adjacent neighbors from hosting wind farm turbine towers east and west of the RLA and would not provide any meaningful safety benefit because the RLA wind farm separation would not be enforced either in Douglas County or within one and one-half miles of the Village of Allerton. The following special condition will ensure that the RLA will not result in unreasonable limitations for the RLA neighbors in the Champaign County wind farm zoning jurisdiction:

The petitioner shall not oppose a waiver of the minimum required RLA wind farm separation (as otherwise required by subpar. 6.1.4 C. 11. of the Champaign County Zoning Ordinance) in any proposed wind farm county board special use permit.

The condition above is necessary to ensure that

The presence of the RLA does not unreasonably limit adjacent Champaign County landowners in their ability to host wind farm turbine towers.

ATTACHMENTS

- A Excerpt of Minutes ZBA meeting on January 26, 1989
- B Excerpt of Minutes of ZBA meeting on August 15, 1990
- C Mark up of imaginary surfaces submitted by Jed Gerdes on July 30, 2009 (included separately)
- D Gerdes Farm Map submitted by Jed Gerdes on July 30, 2009 (included separately)
- E Revised Draft Summary of Evidence for Case 645-S-09, dated November 25, 2009

1 responded to Mr. Thompson's comments, stating that he did recognize the need
2 to accommodate utilities but that the Board also has a responsibility to the
3 citizens to act responsibly. Mr. Starwalt stated that he wished to postpone
4 action until February 23, 1989.
5

6 Mrs. Smalley asked if they would be sent a notice of the meeting in which
7 this case would be voted upon. Ms. Hlavacek responded that they would.
8

9 Mr. Goldenstein moved, seconded by Mr. Smith, to close the public hearing in
10 Case 661-S-88. The vote was:

11
12 Goldenstein - Yes Schneider - Yes Smith - Yes
13 Weckel - Yes Wallace - Yes

14
15 The motion carried unanimously.
16

17 Mr. Schneider moved, seconded by Mr. Smith, to continue taking final action
18 on Case 661-S-88 until the February 23, 1989 meeting, per the petitioner's
19 request. The vote was:

20
21 Goldenstein - Yes Schneider - Yes Smith - Yes
22 Weckel - Yes Wallace - Yes

23
24 The motion carried unanimously.
25

26 The meeting recessed at 9:09 p.m. and reconvened at 9:17 p.m.
27

28 29 6. Public Hearings

- 30
31 A. Case 672-S-88. Petitioner: Stu Moment. Special Use for
32 Restricted Landing Area. Location: Sidney Township, Section 7,
33 southeast corner of TR 1000 N and 1800 E.
34

35 Mr. Stu Moment stated that he would like to request a Restricted Landing
36 Area on a parcel of land which is 166.8 acres. Mr. Moment stated that there
37 are no houses nearby the proposed location of the landing strip, there is a
38 house across the street and one to the north. Mr. Moment stated that this
39 is one of the first cases to be acted on after the new ordinance went into
40 effect.
41

42 Ms. Hlavacek stated that a Special Use would allow for any requested
43 proposal. Mr. Moment stated that he had no interest in schooling at the
44 RLA, and that the farmer who currently farms the land has been given a 50
45 year commitment to farming the parcel. Mr. Moment continued, stating that
46 the location is approximately 2 miles east of Philo Road and that much
47 improvement has been done to the property - painting of buildings, etc. Mr.
48 Moment assured the Board that the elements of the strip would fit into the
49 location. Oscar Demloy lives to the east of 1800 E. There would be no
50 landing of helicopters. This location is also close to Pierce Fertilizer

1 and would be a good location for the transport of chemicals and for spraying
2 of fields. Mr. Moment stated that he is committed to farming in the area
3 and that he will have a contractor use for spraying.
4

5 Mr. Wallace asked if anyone resided in the residence at this location. Mr.
6 Moment responded that no one currently resided there and that he had no
7 intentions at this time to rent out the residence. Mr. Moment stated that
8 it was important to him to maintain the residence and that it would remain
9 on the parcel indefinitely.
10

11 Ms. Hlavacek asked if the barns are being used for livestock. Mr. Moment
12 stated that they are, and improvements were made to the barns this past
13 Fall.
14

15 Ms. Weckel asked if Mr. Moment would be storing his aircraft at his current
16 residence. Mr. Moment answered that he would, but that he would be using
17 the proposed strip for surveying purposes.
18

19 Mr. Wallace questioned if a hangar would be built at this location. Mr.
20 Moment stated that this would be considered if no farmland would be taken
21 out of production.
22

23 Ms. Main questioned why there would be a north-south orientation on the
24 strip. Mr. Moment explained that in the day the wind direction is east-west
25 and the Busboom strip is east-west and that he felt it would be useful to
26 have an alternative strip. Mr. Moment continued, stating that one of the
main purposes for the RLA is to provide for an ideal emergency strip.
28

29 Ms. Hlavacek questioned Mr. Moment's status with the Division of
30 Aeronautics. Mr. Moment responded that everything is in to them and that it
31 requires approximately 60 days for approval. Mr. Moment continued, stating
32 that Mr. Wells has surveyed the area and has advised that the length be
33 2100', but he preferred that the length be listed at 1800'.
34

35 Ms. Hlavacek asked if there would be lights along the strip. Mr. Moment
36 responded that there would not and that the strip was strictly for daytime
37 use.
38

39 Ms. Hlavacek asked if there would be any other fixtures on the strip. Mr.
40 Moment stated that there would not. Mr. Moment continued, stating that the
41 fence is low, there are trees at the end, and there are no concerns with the
42 clear zone.
43

44 Ms. Hlavacek asked if the house on the property was heated and questioned if
45 it could be used for emergency purposes. Mr. Moment stated that it was and
46 that he was considering installing a telephone for that purpose.
47

48 Mr. Wallace asked if the runway clear zone overlapped onto adjoining
49 property. Ms. Hlavacek responded that the proposal meets the requirements
50 of the clear zone, and that agricultural structures are permitted.
51
52

1 Ms. Winston stated that she was a landowner nearby and she was concerned
2 with the safety of the farmers. Ms. Winston questioned the proposed use of
3 the RLA and the reasoning behind it. Ms. Winston also asked if there would
4 be more than one plane, and if so, she did not feel that this was good.
5

6 Mr. Wilson asked if there would be any air shows at the location. Mr.
7 Moment stated that there would not, and that air shows are not allowed
8 without special permission.
9

10 Mr. Wilson questioned the anticipated length of the strip. Mr. Moment
11 explained that in order to clear the 15:1 ratio of the glide path angle,
12 would require 2100'. There is an extra 200' on the north and south for the
13 displaced threshold and the current State of Illinois minimum is 1600'.
14 Mr. Wallace explained that the Board has recently went through a thorough
15 process to set new guidelines in the County for RLA's and the guidelines
16 were designed for the safety.
17

18 Ms. Winston questioned who would be landing at the RLA and stated that she
19 was concerned with drug trafficking. Ms. Hlavacek responded that the State
20 requirements for RLA's restrict the use to the owner and their invited
21 guests. Ms. Hlavacek continued, stating that no commercial activities are
22 allowed. Ms. Hlavacek addressed the issue of safety, stating that the FAA
23 and Division of Aeronautics regulate safety of the runway and this is out of
24 the purview of this Board.
25

26 Mr. Moment stated that Pierce Fertilizer would be invited and the strip
27 would also be used for general inspection of farmer's crops. Mr. Moment
28 continued, stating that he is also interested in the purchase of an old
29 University of Illinois plane. Mr. Moment insured Ms. Winston that drug
30 runners would not be allowed, and as far as safety, the clear zones are
31 generally where planes end up if they run into trouble.
32

33 Mr. Clapper stated that Ms. Winston may be concerned with aerobatics, but
34 stated that this would not happen.
35

36 Ms. Weckel asked if this would be a grass runway. Mr. Moment responded that
37 it would and that it will be easily plowed later. The strip being grass
38 will also improve the drainage and general grading of the area will be done.
39

40 Ms. Winston asked if there were any plans for expansion in the future. Mr.
41 Moment stated that it would be nice to extend the length of the runway, but
42 this would require permission from the State of Illinois.
43

44 Ms. Hlavacek explained that if the Special Use is approved as a grass
45 runway, Mr. Moment could not pave it in the future. Ms. Hlavacek then asked
46 if this would inhibit the farmer in any way by forcing him to go around on
47 the south. Mr. Moment responded that the farmer could travel over the
48 strip, which is running east-west, and the rows would not be pointed.
49

50 Mr. Charles Hughes stated that the natural waterway would be left and a 16"
51 tile would run parallel to the runway on the south. Mr. Hughes also stated
52 that alfalfa will be planted on the runway instead of grass. Mr. Moment

1 stated that the State of Illinois requires mowing of the runway and even in
2 alfalfa, this would be done.

3
4 Ms. Hlavacek stated that the proposed Special Use is not within 1½ miles of
5 the city and the Board is free to take final action on February 9 if it so
6 desires.

7
8 Mr. Wallace asked the petitioner if there was any urgent time frame in which
9 the Board needed to work. Mr. Moment responded that it was not urgent and
10 that he would like to request final action on February 23 when a possible
11 seven members would be present.

12
13 Mr. Smith moved, seconded by Mr. Schneider, to continue the public hearing
14 in Case 672-S-88 until the February 23, 1989 meeting. The vote was:

15
16 Goldenstein - Yes Schneider - Yes Smith - Yes
17 Weckel - Yes Wallace - Yes

18
19 The motion carried unanimously.

20
21
22 **7. Staff Report**

23
24 Ms. Hlavacek stated that a time and date needed to be set for the training
25 session of the Board members. A general discussion followed, and it was the
26 consensus that the training session be held on Monday, February 6, 1989
27 from 10:30 a.m. until 1:00 p.m. in the meeting room at 1905 East Main,
28 Urbana, IL.

29
30
31 **8. Audience Participation**

32
33 There was none.

34
35
36 **9. Adjournment**

37
38 With no further discussion to come before the Board, the meeting was
39 adjourned at 10:08 p.m.

40
41 Respectfully submitted,

42
43 *Cheryl A. Miller*

44
45 Cheryl A. Miller
46 Recording Secretary

47
48 /cam-zba\01-26-89.min

1 Mrs. Cornelius moved, seconded by Mrs. Weckel to continue the public hearing on Case
2 718-AT-90 to September 27, 1990. The vote was:

3 Cornelius - yes
4 Schroeder - yes
5 Wallace - yes

Hart - yes
Smith - yes

Schneider - yes
Weckel - yes

6
7
8 The motion carried unanimously.

9
10 B. Case 724-S-90. Petitioner: Dean F. Schwenk. Request to permit as a
11 Special Use in the AG-1, Agriculture Zoning District, a restricted
12 landing area.

13
14 Mr. Wallace asked if he owned the farm where he proposed to put the RLA. Dean
15 Schwenk responded yes.

16
17 Ms. Sommerlad explained that the entire farm was not included in the petition and
18 only that portion which is needed for the grass strip and safety area is included.
19 She also said that the site is within the one and one half mile extraterritorial
20 jurisdiction of Pesotum and they were notified of the case. Ms. Sommerlad stated
21 that she assumes Pesotum has no objection to the case since Staff has not received
22 any comment. She went on to say that a Land Evaluation and Site Assessment Report
23 will not be completed because it is only taking about 3 acres out of crop production
24 since the safety area will remain planted in row crops. She also said that the Soil
25 and Water Conservation District Report has not been received. She explained that
26 drainage at the site will actually be improved because the grass area will produce
27 less run-off than row crops or a bare field. She said that sewer and water are not
28 needed for this use and the site is within the Pesotum Fire Protection District.
29 She said that IDOT - Division of Aviation has reviewed the proposal and that Mr.
30 Schwenk has been in close contact with Charlie Wells at IDOT during his planning for
31 the RLA. Ms. Sommerlad distributed a letter from IDOT giving their preliminary
32 approval of the project.

33
34 Mr. Sommerlad asked Mr. Schwenk if he planned any new buildings as a part of the
35 Special Use requests. He stated that there is an existing building which will be
36 used to store the planes in. He said that he applied to the IDOT for three but that
37 he probably would only have one. He said that it will be his own private plane used
38 for recreational purposes only. He said that on occasion the air strip may be used
39 by his guests. He said his son will also use the air strip.

40
41 Mrs. Hart asked if in the residence that is located south of the proposed air strip.
42 Mr. Schwenk stated that he lives there on weekends. Mr. Sommerlad said that there
43 is a residence and a mobile home adjacent to Mr. Schwenk's house. Mr. Schwenk
44 stated that his daughter lives in the mobile home.

45
46 Mr. Schwenk said that there are 120 acres that are owned by his family.

47
48 Mrs. Weckel asked about the road to the north of the proposed RLA. Mr. Schwenk said
49 that it was a dirt road that has been closed because of I-57. Ms. Sommerlad said
50 that she thought the road was vacated by the township.

51
52 Mr. Weckel asked about the runway clear zone and said it looked like it would fall
53 on the neighboring property. Ms. Sommerlad said that the clear zone is allowed to
54 extend onto neighboring property but that the safety zone has to be entirely on the
55 petitioners property. She stated that the safety zone was located on Mr. Schwenk's
56 property. Mr. Wallace asked if the neighboring property owner was notified of the
57 hearing and the proposal. Ms. Sommerlad indicated that the owner was notified. She

1 also said that residential structures cannot be located in the clear zone and that
2 there is enough area that this was not a concern in this case.

3
4 Mrs. Weckel stated that with the road to the north vacated, it would make a nice
5 secluded place for a residence. Mr. Wallace stated that the purpose of the hearing
6 was to let interested parties know of potential changes to property and give them an
7 opportunity to object.
8

9 Mr. Schroeder asked about the width of the clear zone. Ms. Sommerlad stated that
10 there was enough room that the grass strip could be shifted to keep the house out of
11 the clear zone.
12

13 Ms. Sommerlad distributed a copy of the Draft Finding of Fact and the Board
14 discussed the findings. Mr. Schroeder had a question about number 11. After
15 discussion it was changed to "The petitioner and his son will be the primary users
16 of the RLA." Mr. Schwenk stated that number 14 should read that the fire station is
17 less than two road miles from the site. Mr. Weckel suggested that number 11 should
18 be changed to say the site is part of 120 acres owned by petitioner and his family.
19 Finding number 15 which states that no new buildings will be constructed for the
20 storage of aircraft.
21

22 Mrs. Schneider moved, seconded by Mr. Cornelius to close the public hearing on Case
23 724-S-90. The vote was:

24	Cornelius - yes	Hart - yes	Schneider - yes
25	Schroeder - yes	Smith - yes	Weckel - yes
26	Wallace - yes		

27
28 The motion carried unanimously.

29
30 Mrs. Schneider moved, seconded by Mrs. Weckel to approve the Finding of Fact and
31 Documents of Record as amended. The vote was:

32	Cornelius - yes	Hart - yes	Schneider - yes
33	Schroeder - yes	Smith - yes	Weckel - yes
34	Wallace - yes		

35
36
37 The motion carried unanimously.

38
39 Mr. Smith moved, seconded by Mrs. Hart to approve Case 724-S-90, request to permit
40 as a special use in the AG-1, Agriculture Zoning District, a restricted landing
41 area. The vote was:

42	Cornelius - yes	Hart - yes	Schneider - yes
43	Schroeder - yes	Smith - yes	Weckel - yes
44	Wallace - yes		

45
46
47 The motion carried unanimously.

48
49 Mr. Smith stated that the proposed use is necessary for public convenience at the
50 proposed location because it will be a good location for crop dusting uses and that
51 it should not be injurious the area in which it is located because it is not in a
52 residential area. He went on to say that the proposed use conforms to applicable
53 regulations of the district in which it is located and will preserve the general
54 character of the agricultural district in which it is to be located. He stated that
55 this use is appropriate for a rural area. At the suggestion of Mrs. Hart he added
56 that IDOT has given their preliminary approval.
57
58

REVISED DRAFT – NOVEMBER 25, 2009

645-S-09

**SUMMARY OF EVIDENCE, FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

Final Determination: { *GRANTED / GRANTED WITH CONDITIONS / DENIED* }

Date: December 3, 2009

Petitioners: Robert and Barbara Gerdes

Request: Authorize the construction and use of a “Restricted Landing Area” as a Special Use in the AG-1 Agriculture Zoning District.

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **June 11, 2009, July 30, 2009, and December 3, 2009**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners, Robert and Barbara Gerdes, own the subject property.
2. The subject property is an approximately 83 acre tract that is approximately the West Half of the Southwest Quarter of Section 33 of Ayers Township and commonly known as the farm at 52 CR 2700E, Broadlands.
3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property is currently zoned AG-1 Agriculture and is in use as a farmstead and associated farmland.
 - B. Land north, east, and west of the subject property is zoned AG-1 and is in use as farmland.
 - C. Land to the south of the subject property is in Douglas County, which does not have a zoning ordinance. The land is in use as farmland.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding the proposed site plan for the proposed RESTRICTED LANDING AREA (RLA), as follows:

ITEM 5. CONTINUED.

- A. The runway is located along the east lot line of the subject property. It is a strip of land 100 feet wide and 1900 feet long. Based on comments on the application the actual runway is only 1600 feet long and is located 300 feet north of CR 0N.
- B. An amended site plan was received on June 19, 2009, that indicates the following:
 - (1) The runway surface is 100 feet wide and 1,871 feet long running north to south.
 - (2) There is a runway safety area located entirely on the subject property that is 120 feet wide, centered on the runway, and extending 240 feet north of the runway and 300 feet south of the runway.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

- 6. Regarding authorization for a “RESTRICTED LANDING AREA” as a Special Use in the AG-1 Zoning District in the *Zoning Ordinance*:
 - A. Section 5.2 authorizes a “RESTRICTED LANDING AREA” as a Special Use in the AG-1, AG-2, I-1, and I-2 Districts.
 - B. Section 6.1.3 establishes the following standard conditions for RESTRICTED LANDING AREAS:
 - (1) Must meet the requirements of the Federal Aviation Administration and Illinois Department of Transportation, Division of Aeronautics.
 - (2) The RESTRICTED LANDING AREA shall provide for a runway plus a runway safety area both located entirely on the LOT. The runway safety area is an area centered 120 feet wide and extending 240 feet beyond each end of the runway.
 - (3) No part of a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B District nor any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located:
 - (a) Within the Primary Surface, an area 250 feet wide centered on the runway centerline and extending 200 feet beyond each end of the runway; or
 - (b) Within the Runway Clear Zones, trapezoidal areas centered on the extended runway centerline at each end of the Primary Surface, 250 feet wide at the end of the primary surface and 450 feet wide at a point 1,000 feet from the primary surface.
 - (4) After a RESTRICTED LANDING AREA is established, the requirements in Section 4.3.7 and Table 5.3 note (12) shall apply.
 - C. Ordinance No. 848 (Zoning Case 634-AT-08 Part A) was adopted on May 21, 2009, and added requirements for wind farms to the *Zoning Ordinance*. Part of those requirements included a 3500 feet separation between any wind turbine tower and an RLA.

ITEM 6. CONTINUED.

- D. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
- (1) “AIRCRAFT” is any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.
 - (2) “RESTRICTED LANDING AREA” is any area described or defined as a Restricted Landing Area under the *Illinois Aviation Safety Rules (92 Ill. Admin. Code Part 14)* and as further regulated by the Illinois Department of Transportation, Division of Aeronautics.
 - (3) “SPECIAL CONDITION” is a condition for the establishment of the SPECIAL USE.
 - (4) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- E. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
 - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare;
 - (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
 - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
 - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- F. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:

ITEM 7. CONTINUED.

- A. The Petitioner has testified on the application, **“Our farming operation has used aerial spraying and/or seeding for 5 years. An air landing strip we have used to load is not available, the land has been tilled. Rye grass is bulky and requires frequent loading.”**
- B. The proposed RLA is intended for private use, but the owner does not fly and it is intended solely for use by the aerial applicator. The owner has other land approximately 13 ½ miles to the north.
- C. The subject property is located in an area where a wind farm is anticipated, as follows:
- (1) Horizon representative, Dwight Farber, has discussed the anticipated wind farm and its general location with Planning and Zoning staff on multiple occasions.
 - (2) At the June 11, 2009, public hearing, attorney Paul Cole, representing several neighbors to the west, indicated that ~~his clients had signed contracts to allow Horizon Wind farm to place a turbine on their property~~ If it were possible to place a wind turbine on their property then his clients would like to have that opportunity.
 - (3) At the June 11, 2009, public hearing, Carl Smith, tenant of the ground immediately to the east of the subject property, indicated he owned land in the vicinity and had signed a contract with Horizon Wind to place a turbine on his property.
 - (4) At the June 11, 2009, public hearing a letter from Mrs. Carole Horst was received and it indicated that she also had a contract on her property to place a wind turbine from Horizon Wind Farms.
- ~~D. It is not clear how much land the Gerdes’ farm and where that land is located in relation to the subject property.~~
- D. The subject property is located beyond the one and one-half mile wind turbine jurisdiction of the nearby Villages of Allerton and Broadlands. However, some neighboring property is located in those areas.
- E. Jed Gerdes, son of the petitioners, testified at the June 11, 2009, public hearing, as follows:
- (1) He and his parents farm together therefore he is assisting them with this request.
 - (2) Having a runway is not entered into lightly because if there is anything a farmer hates to do is mow grass all the time.
 - (3) The petitioners were using an RLA, which belonged to Steve Riggins, and was just a few miles away, but that RLA has now been plowed up and planted in crops. They need to establish a new landing strip so they can continue using rye grass to protect their fields from erosion.

ITEM 7.E. CONTINUED.

- (4) The old landing strip would also have been located in the area of the anticipated wind farm, therefore there would be no net effect on the number of turbines that could be located in the anticipated wind farm.
- (5) The main reason they need the proposed RLA is to allow aerial application of rye grass. He said that he is one of the only farmers in Central Illinois who has been working with rye grass.
- (6) Mike Plummer from the University of Illinois has been trying to promote rye grass because it is one of the best ways to preserve Champaign County farmground.
- (7) In early August when the corn and beans are beginning to turn the rye grass seed is flown on and when it receives a good one-inch rain it starts growing. By the time the corn and beans are ready to be harvested there is a good stand of rye grass on his fields and it is an excellent erosion preventer.
- (8) He has also experienced some significant yield boosts on thin Vermillion County ground. His corn fields have averaged around 200 bushels to the acre and up to 74 bushels for beans.
- (9) Working with rye grass is not very popular because it takes some trial and error, but he has been working with the National Rye Grass Association from Oregon and they have had some success.
- (10) He stated that when a field is tilled carbon is released into the atmosphere, but a no-till field actually sequesters carbon at the rate of 1300 kilograms per year. As compared to a tillage field, a no-tillage field can sequester the same amount of carbon that an average home would release from a coal powered plant. When you add rye grass to a no-tillage field the amount almost doubles because there is a crop growing on the field year round. The effect of this carbon sequestration is to help out the environment in the same way as wind turbines.
- (11) The main challenge with rye grass is that it is very bulky, and even spreading it at a light rate an airplane can only hold 70 acres worth of seed, and if urea fertilizer is mixed in only 35 acres worth can be carried. This is can make things quite difficult if the airplane has a long way to fly while loaded.
- (12) Spreading the seed has to be done early in the morning when the wind is very still, usually before 9 AM.

ITEM 7.E. CONTINUED.

- (13) He stated that he raises good quality seed beans and he has to spray fungicides, which means he could save five to ten dollars per acre by providing a landing strip closer to where he farms. When you multiply those savings by thousands of acres that is a large financial incentive, and also helps with the cost of setting aside the ground for the RLA.
 - (14) He understands there is a wind farm anticipated in this area, but Horizon has not applied for any permits to date.
 - (15) The subject property is the home base of his and his family's farming operations.
 - (16) He and his partner, Charles Goodall, farm in six different counties, and the bulk of his farming area is in the Broadlands, Allerton, and Sidell area, encompassing approximately 2500 acres. He lives in his grandmother's old home near Ogden.
 - (17) It is possible that his spray applicator would load fungicides and he could install a loading pad if necessary. According to current regulations his applicator does not need a loading pad as long as there is permanent chemical storage at his main facility.
 - (18) He stated that his aerial applicator does not have an ownership interest in the proposed RLA, but he needs the RLA for rye grass application and to keep input costs down. He said he would make the RLA available for other pilots as well. He wants to benefit his neighbors as well.
 - (19) He said that he currently plants between 200 and 400 acres of rye grass and he hopes to increase that substantially over the years. He said that the farm where he applies the rye grass is in the anticipated wind farm area.
 - (20) He said that if the proposed RLA was not approved and not located on the subject property he would only be able to spread rye grass on 100 acres because it would take too long for the applicator to fly back and forth.
 - (21) Mr. Goodall is located primarily in the Sidell area, which is anticipated to be part of the same wind farm as in Mr. Gerdes's area. He also stated that the fields he spreads rye grass on are located next to Mr. Goodall's fields.
- F. Mr. John Richard Reed, 18 Stonegate, Charleston, testified at the June 11, 2009, public hearing, as follows:
- (1) He is the co-owner of Reed's Fly-On Farming and has been based out of Coles County Memorial Airport for 33 years.
 - (2) He feels that this RLA is a great idea because he has just lost the use of another RLA. He normally flies out of Mattoon, but he can also fly out of Danville and Tuscola. However, there are no other places in the middle of those hard surface airports that he can use.

ITEM 7.F. CONTINUED.

- (3) Rye grass is a difficult crop to apply and time is of the essence, so being able to load close is imperative. He said there is not a single helicopter in the State of Illinois that can apply rye grass.
 - (4) His business has tripled in the last few years and he plans to use the RLA in the spring for application of fungicides on corn and soybeans.
 - (5) Over the past ten years the existing RLA's have been disappearing, but over the past two years there have been more and more applications for RLA's across the state, for reasons mostly similar to Mr. Gerdes's.
 - (6) The potential for Asian Rust to move into Illinois is a good possibility and the number of acres that would have to be covered in a short time is extremely high.
- G. Carl Smith, 214 CR 2700E, Allerton, testified at the June 11, 2009, public hearing, as follows:
- (1) Although he has an Allerton address he lives in Champaign County.
 - (2) He and his brother are the tenants of the farm directly on the east side of the subject property, and he submitted a letter from the land owner.
 - (3) Mr. Smith, Mrs. Horst, the land owner of the farm directly to the east, and her sister own considerable property in the area, and they all signed contracts with Horizon several months before the RLA was proposed.
 - (4) An airstrip to service agricultural uses is a good idea. Mr. Reed has sprayed thousands of acres that he farmed over the years, but to the best of his knowledge, Mr. Reed has always been able to service his farms out of Mattoon.
- H. Carole Smith Horst, landowner of the property directly bordering the subject property on the east, gave her tenant a letter that he submitted at the June 11, 2009, public hearing, which indicated the following:
- (1) Her nephews/tenants, Carl and Vic Smith, and Horizon Wind Farms are allowed to speak on her behalf against the placement of this landing strip.
 - (2) She has signed a contract to allow Horizon Wind Farms to place a turbine on her property.
 - (3) She feels that if the landing strip is approved she and her tenants and heirs should be reimbursed for the loss of income from the wind farm.
- I. Other than the petitioners and Jed Gerdes, no other farmer in the vicinity has asserted that the proposed RLA is necessary for public convenience.

ITEM 7. CONTINUED.

- J. Other than Jed Gerdes, there is no evidence that any other farmer in the vicinity plants rye grass with row crops.
- K. Regarding previous SUP applications for RLA's in Champaign County:
- (1) The Special Use Permit requirements for RLA's were added to the *Zoning Ordinance* in Ordinance No. 320 (Zoning Case 642-AT-88) adopted on August 23, 1988. At that time there were many RLA's in operation in the County that became legal nonconforming uses at that time.
 - (2) Since the adoption of Ordinance No. 320, Champaign County has authorized three SUP's for RLA's, as follows:
 - (a) Case 672-S-88 was approved on for petitioner Stu Moment in Section 7 of Sidney Township, however, this RLA does not appear to be in use anymore. The SUP is attached to the land so an RLA could be reestablished on that location, presuming all the County zoning and IDOT requirements could still be met.
 - (b) Case 724-S-90 was approved on for petitioner Dean Schenk in Section 12 of Pesotum Township, and appears to still be in use.
 - (c) Case 750-S-91 was approved on for petitioner Lowell Routh in Section 36 of St. Joseph Township, and appears to still be in use.
 - (3) In Cases 672-S-88 and 724-S-90 the Board included in its Finding of Facts that those RLA's were necessary for the public convenience because of their use for agricultural purposes.
 - (4) Regarding other known RLA's in Champaign County on August 23, 1988:
 - (a) In Section 12 of Newcomb Township a Mr. Furtney established an RLA on July 1, 1986, but did not obtain a Zoning Use Permit (ZUP) for the use. It does not appear that this RLA is still in use.
 - (b) In Section 1 of Hensley Township, Riley McCulley established an RLA on June 21, 1973, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. This RLA appears to still be in use.
 - (c) In Section 12 of Mahomet Township, Voyle Spence established an RLA on June 26, 1969, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. However, this RLA was not in use as of August 23, 1988, and would have to be reestablished by way of a SUP.
 - (d) In Section 28 of Hensley Township, Frank Andrew established an RLA on January 18, 1949, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. It does not appear that this RLA is still in use.

ITEM 7.K.(4) CONTINUED.

- (e) In Section 28 of Mahomet Township, William Herriot established an RLA on April 8, 1977, but did not obtain a ZUP for the use. It does not appear that this RLA is still in use.
 - (f) In Section 31 of Somer Township, Roy Reifsteck established an RLA on September 9, 1959, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. It does not appear that this RLA is still in use.
 - (g) In Section 21 of Scott Township, Mark Igoe established a Heliport/RLA on March 17, 1988, but did not obtain a ZUP for the use. This RLA appears to still be in use.
 - (h) In Section 27 of Scott Township, John Litchfield established an RLA on September 5, 1980, but did not obtain a ZUP for the use. This RLA appears to still be in use.
 - (i) In Section 29 of Rantoul Township, Robert Schmidt established an RLA on July 21, 1983, but did not obtain a ZUP for the use. However, a ZUP was obtained at a later date and the lot containing the RLA was the subject of Zoning Case 528-V-05. This RLA appears to still be in use.
 - (j) In 6 of St. Joseph Township, Roscoe Knott established an RLA on November 29, 1949, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. It does not appear that this RLA is still in use.
 - (k) In Section 16 of St. Joseph Township, Dale Busboom established an RLA on August 3, 1970, but did not obtain a ZUP for the use. This RLA appears to still be in use.
 - (l) In Section 22 of Sidney Township, Harry Justus established an RLA on August 23, 1966, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. It does not appear that this RLA is still in use.
- (5) No Special Use Permit for an RLA has ever been authorized in Ogden, South Homer, Ayers, Raymond, Philo, Crittenden, or Tolono Townships.
- L. As noted above in Item 7.F.(21), Mr Gerdes testified at the June 11, 2009, public hearing that his farming partner, Mr. Goodall is also located in the anticipated wind farm area, and that the fields Mr. Gerdes plants with rye grass are near Mr. Goodall. If the rye grass fields are also located in the wind farm area it is possible that even if the RLA is approved wind turbine towers surrounding the rye grass fields could obstruct the spreading of the seed.

ITEM 7. CONTINUED.

M. Jed Gerdes, son of the petitioners, testified at the July 30, 2009, public hearing as follows:

- (1) As soon as he found out that the airstrip that he was previously utilizing was tilled under then he started his application for this request.
- (2) He contacted Steve Riggins, owner of the previous airstrip, and asked why the air strip no longer existed and Mr. Riggins informed him that he had sold his airplane and no longer needed the airstrip.
- (3) He said that there are a lot of RLA's in Champaign County but they are all in the northern portion of the County and not within his area.
- (4) He has also spoken to his local fertilizer dealer offering the airstrip to utilize their needs. He said that his local fertilizer dealer's pilot clipped a power line and had to fly back to Rantoul because there was no place for him to land in the area that he was serving therefore there is a safety concern in having no facility for those pilots to land in the southern portion of the County.
- (5) Mr. Gerdes indicated on a map indicating the general location of his farm ground to show how the RLA is centrally located for his use. He said that the subject property is where the central hub of his operation is located because it is where he stores the seed, farming equipment, etc.

N. Rick Reed, owner of Reed's Fly-On Farming, testified in a letter submitted by Jed Gerdes at the July 30, 2009, public hearing as follows:

- (1) He works a great deal between Villa Grove and Oakwood and there is no suitable place for me to land in that area. If I had a landing strip on Jed's ground today, it would have saved about three hours of extra flight time while working seed corn in the Oakwood area.
- (2) He respectfully urges the Board to consider the potential good that will come from allowing the construction of this airstrip, good not just for the Gerdes family but for all the agricultural community.

O. Paul Cole, attorney representing Robert and Barbara Miller, neighbors to the west, testified at the July 30, 2009, public hearing that none of his clients have a contract for a wind turbine to be placed on their property.

P. Carl Smith, 214 CR 2700E, Allerton, testified at the July 30, 2009, public hearing as follows:

- (1) The fact that few pilots serve many farmers is absolutely true and Mr. Reed has sprayed several acres for him over the years.
- (2) In all of the years that Mr. Reed has serviced his fields Mr. Reed has flown out of his Mattoon location although the Tuscola airport or Danville airport would have been much closer.

ITEM 7.P. CONTINUED.

- (3) Currently he is in the midst of having fields sprayed and the pilots are flying from Paris and Rantoul and do not choose Champaign, Danville or Tuscola. He said that they choose to fly out of their home location where their equipment is set up for their chemicals and everything else.
- (4) If it were more economical for them to move to a closer location he would imagine that they would therefore the availability of this RLA will not act as a magnet to attract pilots to use as a base of operation.
- (5) There has been testimony that the RLA would save area farmers money although he has never been told from a pilot that if he could move to a closer location he would charge less.

GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
 - A. The Petitioner has testified on the application, **“Dale Rust, Flight Safety Coordinator of Illinois Department of Transportation has inspected the site, stated it is satisfactory, and it follows his recommendations. It allows 1900’ for landing area (300’ for road). It is a positive tool for agriculture.”**
 - B. The proposed RLA is also located on the southern line of Champaign County, such that neither the required 3500 feet wind turbine separation nor the required Runway Clear Zones (see Item 6) can be fully enforced for the proposed RLA, as follows:
 - (1) Based on analysis of Attachment to the Supplemental Memorandum dated July 24, 2009, “IDOT Imaginary Surfaces and Zoning Standard Conditions” the area covered by the 3500 feet separation from the proposed RLA would include approximately 1208 acres.
 - (2) Approximately 529 acres (or about 44%) of the area within 3,500 feet of the proposed RLA is within the Champaign County wind farm zoning jurisdiction due to the subject property’s location on the county line between Champaign and Douglas County, and its proximity to the Village of Allerton’s Wind Turbine Jurisdiction. ~~the County can only enforce the 3500 feet separation on approximately 529 acres or 44% of the intended 1208 acres.~~
 - (3) Of the 529 acres that is within 3,500 feet of the proposed RLA and within the Champaign County wind farm zoning jurisdiction, about 285 acres (54%) is also within other required wind farm separations.

ITEM 8. CONTINUED.

- C. Regarding surface drainage:
- (1) The subject property is located in the Union Drainage District.
 - (2) The existing amount of impervious area on the subject property does not trigger any requirement for stormwater detention under the *Champaign County Stormwater Management Policy*, and no new impervious area is proposed as part of the RLA.
 - (3) Notice was sent to the Union Drainage District, but no comments have been received to date.
- D. The subject property is located on CR 2700E, one-half mile from CR 0N. The subject property is accessed from CR 2700E on the west side of the property. Regarding the general traffic conditions on CR 2700E at this location and the level of existing traffic and the likely increase from the proposed Special Use:
- (1) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data, in the vicinity of the subject property, is from 2001, as follows:
 - (a) Along CR 2700E where it passes the subject property the ADT is 50 trips.
 - (b) The proposed RLA is for private use only and is proposed to be used for agricultural purposes making an increase in traffic unlikely.
 - (2) The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* are general design guidelines for local road construction using Motor Fuel Tax funding and relate traffic volume to recommended pavement width, shoulder width, and other design considerations. The *Manual* indicates the following pavement widths for the following traffic volumes measured in Average Daily Traffic (ADT):
 - (a) A local road with a pavement width of 16 feet has a recommended maximum ADT of no more than 150 vehicle trips.
 - (b) A local road with a pavement width of 18 feet has a recommended maximum ADT of no more than 250 vehicle trips.
 - (c) A local road with a pavement width of 20 feet has a recommended maximum ADT between 250 and 400 vehicle trips.
 - (d) A local road with a pavement width of 22 feet has a recommended maximum ADT of more than 400 vehicle trips.

ITEM 8.D.(2) CONTINUED.

- (e) The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* general design guidelines also recommends that local roads with an ADT of 400 vehicle trips or less have a minimum shoulder width of two feet.
- (3) The width of CR 2700E was measured by J.R. Knight, Associate Planner, during a site visit on June 2, 2009, to be 16 feet wide.
- (4) The Township Road Commissioner has been notified of this case, but no comments have been received at this time.
- E. Regarding fire protection of the subject property, the subject property is within the protection area of the Allerton Fire Protection District and is located approximately three road miles from the fire station. The Fire Protection District Chief has been notified of this request, but no comments have been received at this time.
- F. The subject property does not appear to be located within a Special Flood Hazard Area.
- G. Regarding outdoor lighting on the subject property, there is no indication on the site plan of outdoor lighting for any purpose.
- H. Regarding subsurface drainage, the site plan does not contain any information regarding agricultural field tile.
- I. Regarding wastewater treatment and disposal on the subject property, the proposed use has no need for any wastewater treatment and disposal.
- J. Paul Cole, attorney representing Hester L. Miles and Robert and Barbara Miller, adjacent landowners west of the subject property, testified at the June 11, 2009, public hearing that if it were possible to place a wind turbine on their property his clients would like the opportunity to do so.
- K. Mr. John Richard Reed, owner of Reed's Fly-On Farming, testified at the June 11, 2009, public hearing, as follows:
 - (1) This location would create safety concerns if the 3500 feet separation was not available and only standard separations from wind turbines were enforced.
 - (2) In discussions with wind farm developers one of the items they are reviewing is a circle at least 3500 feet around landing strips.

ITEM 8. CONTINUED.

- L. A letter from Mrs. Carole Horst was submitted at the June 11, 2009, public hearing which indicated that if the proposed RLA was approved she felt that she, her tenants, and heirs should be compensated for the lost income from no longer being able to take part in the anticipated Horizon wind farm.
- M. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.
- N. Regarding the efficacy of the RLA wind farm separation required by the Champaign County Zoning Ordinance for the proposed RLA if a wind farm is also developed:
- (1) If the RLA is authorized and the anticipated wind farm is developed, ~~more than 50%~~ about 56% of the required RLA separation from the wind farm would be under other zoning jurisdictions and not within the Champaign County zoning jurisdiction. ~~The lack of the required RLA wind farm separation would create safety concerns and would make it more difficult to authorize that part of the wind farm in Champaign County.~~
 - (2) Requiring the RLA wind farm separation required by the Champaign County Zoning Ordinance would only serve to prevent the adjacent neighbors from hosting wind farm turbine towers east and west of the RLA and would not provide any meaningful safety benefit because the RLA wind farm separation would not be enforced either in Douglas County or within one and one-half miles of the Village of Allerton.
- O. Regarding the economic impact of proposed RLA versus the impact of the anticipated wind farm:
- (1) The average annual per acre value of wind farm lease payments is approximately \$50 per acre assuming a gross density of one turbine per 70 acres and a lease value of \$3,500 based on information about the first wind turbine developments in McLean County in 2002.
 - (2) Jed Gerdes, son of the petitioners, testified at the June 11, 2009, public hearing that he raises good quality beans which require fungicides to be sprayed, and he can save five to ten dollars an acre by providing a landing strip closer to where he farms. When that savings is multiplied over thousands of acres it provides a strong financial incentive to have a landing strip.
 - (3) There would also be a significant positive effect on local property tax revenues that staff has not tried to estimate.

ITEM 8. CONTINUED.

- P. The applicant is not a pilot and does not have a plane and does not plan to use the proposed RLA for recreational flying. The proposed RLA is intended to be used by the applicant's agricultural aerial applicator (and other agricultural aerial applicators) in servicing the surrounding farmland. Agricultural aerial applicators increasingly have to navigate around wind farms in conducting their aerial applications.
- Q. The petitioner's agricultural aerial applicator may use the petitioner's land as a landing strip for aerial agricultural purposes without designation as an RLA. However, RLA designation provides the benefit of IDOT enforcement of the runway approach slopes for a distance of 3,000 feet off the ends of the runway.
- R. If a wind farm is developed around the proposed RLA the approach slopes that extend off the ends of the proposed RLA will apparently fall into typical wind farm separations and should limit placement of wind farm turbines, as follows:
- (1) The approach slope at the north end of the proposed RLA will be located in the separation around the petitioner's property as a non-participating landowner in relation to the wind farm and in the separation around a neighbor's dwelling (also expected to be a non-participating landowner in relation to the wind farm) that is located north of the proposed RLA along CR100N.
 - (2) The approach slope at the south end of the proposed RLA will be located in the separation around CR2750E in Douglas County which is assumed to be 550 feet wide on either side of CR2750E.
- S. If a wind farm is developed around the proposed RLA and no RLA wind farm separation is provided, a 1,000 feet wide wind turbine free zone would be centered on public roads CR100N in Champaign County at the north end of the RLA and along Illinois Route 49 located ¾ mile east of the RLA and along CR2750E in Douglas County.
- T. Jed Gerdes, son of the petitioners, testified at the July 30, 2009, public hearing regarding the Miles' farm property to the west, as follows:
- (1) He said that he spoke to the pilots and they indicated that just losing 300 foot on one side of the airstrip would not be a big deal and they could work with it.
 - (2) The 3500 feet separation would only give the Miles' neighbor 350 feet away from a wind turbine and, with the Board's approval, it could be moved back to 3200 feet on the north/south line which would allow them 650 feet which would give ample room to set a wind turbine and give them at least a 100 foot leeway.
 - (3) With this approval the Miles could have a wind turbine and he could have the rye grass flown on it.

GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:

A. The Petitioner has testified on the application, **“Yes, Grass areas are part of agriculture, as pastures and waterways.”**

B. Regarding compliance with the *Zoning Ordinance*:

(1) The proposed RLA complies with all area and placement requirements for the AG-1 District in Section 5.3,

(2) Regarding parking on the subject property, it is unclear what the exact parking requirements for an RLA would be, however, there appears to be more than adequate area around the farmstead to accommodate parking for the proposed use.

(3) Regarding compliance with the standard condition requiring a proposed RLA must meet the requirements of the Federal Aviation Administration (FAA) and Illinois Department of Transportation, Division of Aeronautics (IDOT/DOA):

(a) The FAA requirements for RLA’s mostly deal with operation of the RLA once it is established. However, the FAA does make an airspace determination before the RLA is established. This airspace determination must be favorable for the RLA to be established, the IDOT/DOA requirements incorporate this requirement.

(b) IDOT/DOA enforces the *Illinois Aviation Safety Rules (92 Ill. Admin. Code Part 14)* which contains regulations for establishment of a RLA.

(c) RLA’s are required to be private use only, to provide a sufficient landing area taking into account the skill of the pilots using the facility and the type of aircraft used, and to meet minimum dimensional standards.

The petitioners submitted a letter from Dale Rust, Flight Safety Coordinator, with IDOT/DOA, dated April 21, 2009, that indicates the proposed location of the landing area provides sufficient length for a safe operation and takes into account other aeronautical facilities in the area.

(d) RLA’s are required to obtain a Certificate of Approval from IDOT/DOA, which involves an application process with an initial inspection of the proposed area, obtaining an FAA airspace determination, publication of notice in a local newspaper, the chance for concerned neighbors to request a hearing, and a final inspection.

ITEM 9.B.(3)(D) CONTINUED.

The petitioners submitted a letter from Dale Rust, Flight Safety Coordinator, with IDOT/DOA, dated April 21, 2009, that indicates Mr. Rust performed the initial inspection and has indicated a favorable result. There is no information regarding the FAA airspace determination, but Mr. Rust did indicate that a negative determination is unlikely.

- (e) RLA's are also required to meet minimum runway dimensions and to have imaginary surfaces of specified slope on all four sides of the runway that are free from obstruction by any structures or natural obstructions, as follows:

- i. An RLA runway is required to be a minimum of 100 feet wide and to have a minimum length of 1600 feet. It is possible that due to certain obstructions a runway may be longer than 1600 feet but only for landings or take offs in certain directions.

The petitioner has indicated on the site plan and application that the runway will be 1871 feet long and separated from CR 0N by 300 feet.

- ii. There are also requirements for separation distances between a runway, taxiway, and aircraft parking, but the petitioner has not indicated any taxiway or aircraft parking on the site plan.
- iii. At either end of the runway a 15:1 slope extending 3,000 feet beyond the end of the runway.

The only obstruction near the runway that appears to require a minimum clearance is CR 0N, which requires a 15 feet clearance according to IDOT/DOA requirements. The runway is located 300 feet north of the street providing 20 feet of clearance.

- iv. On either side of the runway a 4:1 slope extending 135 feet from the centerline of the runway.

There does not appear to be any obstruction that would interfere with the side transition slopes.

- (f) Overall it appears that if the petitioners obtain a positive airspace determination from the FAA they will meet all state and federal requirements for establishing an RLA. There are also numerous requirements for safe operation of an RLA, which the petitioners are also required to meet or be in violation of their SUP.

ITEM 9.B. CONTINUED.

- (4) The RESTRICTED LANDING AREA shall provide for a runway plus a runway safety area both located entirely on the LOT. The runway safety area is an area centered 120 feet wide and extending 240 feet beyond each end of the runway.

The petitioner has indicated the required runway safety area on the site plan,

- (5) No part of a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B District nor any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located:
- i. Within the Primary Surface, an area 250 feet wide centered on the runway centerline and extending 200 feet beyond each end of the runway; or
 - ii. The Runway Clear Zones, trapezoidal areas centered on the extended runway centerline at each end of the Primary Surface, 250 feet wide at the end of the primary surface and 450 feet wide at a point 1,000 feet from the primary surface.
 - iii. These areas are not indicated on the site plan, but they are not required to be entirely contained on the subject property and there are no structures within the described areas.
- (6) After a RESTRICTED LANDING AREA is established, the requirements in Section 4.3.7 and Table 5.3 note (12) shall apply.

This condition does not appear to be a requirement on the petitioners, but instead on anyone who is building a structure of some sort close enough to the RLA that it might be a hazard to aircraft.

- C. Regarding compliance with the *Stormwater Management Policy*, the proposed use will not require any stormwater detention.
- D. Regarding the Special Flood Hazard Areas Ordinance and Subdivision Regulations:
- (1) The subject property does not appear to be located in a Special Flood Hazard Area.
 - (2) The subject property complies with the Subdivision Regulations.
- E. Regarding the requirement that the Special Use preserve the essential character of the AG-1 Zoning District, the RLA is proposed to support agricultural activities.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use is in harmony with the general intent and purpose of the Ordinance:

ITEM 10. CONTINUED.

- A. A “RESTRICTED LANDING AREA” may be authorized in the AG-1 Agriculture Zoning District as a Special Use provided all other zoning requirements are met.
- B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
 - (1) Subsection 5.1.7 of the Ordinance states the general intent of the AG-1 District and states as follows (capitalized words are defined in the Ordinance):

The AG-1, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURAL pursuits.

- (2) The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.
- C. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:
 - (1) Paragraph 2 .0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.
 - (a) This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan is in full compliance with those requirements.
 - (b) The proposed RLA { with the special conditions will provide adequate safety / will not provide adequate safety due to the inability to ensure adequate separation from a proposed wind farm in Douglas County and within one and one half miles of the Village of Allerton}.
 - (2) Paragraph 2.0 (b) of the Ordinance states that one purpose of the Ordinance is conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.
 - (a) In regards to the value of nearby properties, the proposed Special Use Permit will likely have a negligible effect on property value provided that those properties are not restricted in their ability to lease ground for wind farm turbine towers.
 - (b) With regard to the value of the subject property, the proposed Special Use Permit will likely have a negligible effect on property value

ITEM 10.C. CONTINUED.

- (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS.

The current IDOT traffic count is from 2001, and indicates that CR 2700E could handle a 200% increase in traffic.

- (4) Paragraph 2.0 (d) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding the hazards to persons and damage to PROPERTY resulting from the accumulation of runoff from storm or flood waters.

The requested Special Use Permit complies with the *Champaign County Stormwater Management Policy* and is outside of the Special Flood Hazard Area and there are no special drainage problems that appear to be created by the Special Use Permit.

- (5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.

(a) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.

(b) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.

(c) The proposed RLA { with the special conditions will provide adequate safety / will not provide adequate safety due to the inability to ensure adequate separation from a proposed wind farm in Douglas County and within one and one half miles of the Village of Allerton}.

- (6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to be in full compliance.

- (7) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire

ITEM 10.C.(7) CONTINUED.

COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate nonconforming conditions. No special conditions appear to be necessary

- (8) Paragraph 2.0 (m) of the Ordinance states that one purpose of the Ordinance is preventing additions to and alteration or remodeling of existing BUILDINGS, STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

This purpose relates to nonconforming buildings, structures, or uses that existed on the date of the adoption of the Ordinance and the proposed Special Use is not an existing nonconforming use.

- (9) Paragraph 2.0 (n) of the Ordinance states that one purpose of the Ordinance is protecting the most productive AGRICULTURAL lands from haphazard and unplanned intrusions of urban USES.

The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

- (10) Paragraph 2.0 (o) of the Ordinance states that one purpose of the Ordinance is protecting natural features such as forested areas and watercourses.

There are no natural areas on the subject property.

- (11) Paragraph 2.0 (p) of the Ordinance states that one purpose of the Ordinance is encouraging the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

ITEM 10.C.(11) CONTINUED.

This purpose is not relevant to the proposed Special Use Permit because the AG-1 District is not for urban development.

- (12) Paragraph 2.0 (q) of the Ordinance states that one purpose of the Ordinance is encouraging the preservation of AGRICULTURAL belts surrounding urban areas, to retain the AGRICULTURAL nature of the COUNTY, and the individual character of existing communities.

The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. The proposed Special Use is an existing NONCONFORMING USE because the existing use has been on the subject property since before the adoption of the *Zoning Ordinance* on October 10, 1973.
- A. The Petitioner has testified on the application, **“Does not apply”**

GENERALLY REGARDING ANY SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval:
- A. The applicant is not a pilot and does not have a plane and does not plan to use the proposed RLA for recreational flying. The proposed RLA is intended to be used for the applicant’s agricultural aerial applicator (and other agricultural aerial applicators) in servicing the surrounding farmland. Agricultural aerial applicators increasingly have to navigate around wind farms in conducting their aerial applications. The following special condition will ensure that the proposed RLA is used primarily only by agricultural aerial applicators:

The proposed RLA may only be used by agricultural aerial applicators except as may be necessary for emergency landings when it may be used by anyone.

The condition above is necessary to ensure that:

The proposed RLA is principally used by skilled agricultural aerial applicators.

- B. In the event that a wind farm is developed around the proposed RLA, requiring the RLA wind farm separation required by the Champaign County Zoning Ordinance would only serve to prevent the adjacent neighbors from hosting wind farm turbine towers east and west of the RLA and would not provide any meaningful safety benefit because the RLA wind farm separation would not be enforced either in Douglas County or within one and one-half miles of the Village of Allerton. The following special condition will ensure that the RLA will not result in

ITEM 12.B. CONTINUED.

unreasonable limitations for the RLA neighbors in the Champaign County wind farm zoning jurisdiction:

The petitioner shall not oppose a waiver of the minimum required RLA wind farm separation (as otherwise required by subpar. 6.1.4 C. 11. of the Champaign County Zoning Ordinance) in any proposed wind farm county board special use permit.

The condition above is necessary to ensure that

The presence of the RLA does not unreasonably limit adjacent Champaign County landowners in their ability to host wind farm turbine towers.

DOCUMENTS OF RECORD

1. Special Use Permit Application from Robert and Barbara Gerdes received on April 24, 2009, with attachments:
 - A Proposed site plan
2. Letter from Dale Rust, Flight Safety Coordinator, to Jed Gerdes dated April 21, 2009
3. Preliminary Memorandum for Case 645-S-09, with attachments:
 - A Zoning Case Maps (Location, Land Use, Zoning)
 - B Proposed site plan received April 24, 2009
 - C Letter from Dale Rust, Flight Safety Coordinator, to Jed Gerdes dated April 21, 2009
 - D Excerpts of *Illinois Aviation Safety Rules (92 Ill. Admin. Code Part 14)*
 - E IDOT Traffic Map of vicinity of subject property
 - F Preliminary Draft Summary of Evidence for Case 645-S-09
4. Staff handouts at June 11, 2009 meeting
5. Letter from Carole Horst submitted at the June 11, 2009, ZBA meeting
6. Supplemental Memorandum for Case 645-S-09, dated July 24, 2009
7. Supplemental Memorandum for Case 645-S-09, dated July 30, 2009, with attachments:
 - A Revised Wind Farm Separations
8. Gerdes Farm Map submitted by Jed Gerdes on July 30, 2009
9. Letter from Rick Reed, received at July 30, 2009, ZBA meeting
10. Mark up of imaginary surfaces submitted by Jed Gerdes on July 30, 2009
11. Supplemental Memorandum for Case 645-S-09, dated November 25, 2009, with attachments:
 - A Excerpt of Minutes ZBA meeting on January 26, 1989
 - B Excerpt of Minutes of ZBA meeting on August 15, 1990
 - C Mark up of imaginary surfaces submitted by Jed Gerdes on July 30, 2009 (included separately)
 - D Gerdes Farm Map submitted by Jed Gerdes on July 30, 2009 (included separately)
 - E Revised Draft Summary of Evidence for Case 645-S-09, dated November 25, 2009

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **645-S-09** held on **June 11, 2009, and July 30, 2009**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN }* *{ IS / IS NOT }* necessary for the public convenience at this location because: _____

2. The requested Special Use Permit *{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN }* is so designed, located, and proposed to be operated so that it *{ WILL / WILL NOT }* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
 - a. The street has *{ ADEQUATE / INADEQUATE }* traffic capacity and the entrance location has *{ ADEQUATE / INADEQUATE }* visibility.
 - b. Emergency services availability is *{ ADEQUATE / INADEQUATE }* *{because:¹}* _____

 - c. The Special Use will be designed to *{ CONFORM / NOT CONFORM }* to all relevant County ordinances and codes.
 - d. The Special Use *{ WILL / WILL NOT }* be compatible with adjacent uses *{because:¹}* _____

 - e. Surface and subsurface drainage will be *{ ADEQUATE / INADEQUATE }* *{because:¹}* _____

 - f. Public safety will be *{ ADEQUATE / INADEQUATE }* *{because:¹}* _____

 - g. The location *{ IS / IS NOT }* suitable for the proposed onsite wastewater system *{because:¹}* _____

 - h. *(Note: The Board may include other relevant considerations as necessary or desirable in each case.)*

1. In each case the Board may add supporting reasoning if desired.

FINDINGS OF FACT, CONTINUED.

- 3a. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { DOES / DOES NOT }** conform to the applicable regulations and standards of the DISTRICT in which it is located.
- 3b. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { DOES / DOES NOT }** preserves the essential character of the DISTRICT in which it is located because:
- a. The Special Use will be designed to **{ CONFORM / NOT CONFORM }** to all relevant County ordinances and codes.
 - b. The Special Use **{ WILL / WILL NOT }** be compatible with adjacent uses.
 - c. Public safety will be **{ ADEQUATE / INADEQUATE }**.
 - d. *(Note: The Board may include other relevant considerations as necessary or desirable in each case.)*
-
4. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { IS / IS NOT }** in harmony with the general purpose and intent of the Ordinance because:
- a. The Special Use is authorized in the District.
 - b. The requested Special Use Permit **{ IS / IS NOT }** necessary for the public convenience at this location.
 - c. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN }** is so designed, located, and proposed to be operated so that it **{ WILL / WILL NOT }** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
 - d. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { DOES / DOES NOT }** preserves the essential character of the DISTRICT in which it is located.
 - e. *(Note: The Board may include other relevant considerations as necessary or desirable in each case.)*
-
5. The requested Special Use **{ IS / IS NOT }** an existing nonconforming use.
6. **{ NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW: }**

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.11B. *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case **645-S-09** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners **Robert and Barbara Gerdes** to authorize **the construction and use of a “Restricted Landing Area” as a Special Use in the AG-1 Agriculture Zoning District.**

{SUBJECT TO THE FOLLOWING SPECIAL CONDITION(S)}

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

Nov 23 2009

CHAMPAIGN CO. P & Z DEPARTMENT

Attorneys at Law

411 West University Avenue
Champaign, Illinois 61820
217-351-4040

Mailing Address:
P.O. Box 1098
Champaign, Illinois 61824-1098
FAX: 217-351-4314

SAM ERWIN (1935-2002)
RICHARD C. KIRBY (1948-2009)

JAMES A. MARTINKUS
PAUL R. COLE
SARAH B. TINNEY
JEFFERY B. WAMPLER
R. MICHAEL BROWN
JEFFREY L. HAYS
RICK W. AEILTS

November 24, 2009

ANNE M. MARTINKUS
MIKE MCCORMICK
CARRIE B. BOYD
DAVID C. STEIGMANN

Paralegals
CAROLYN S. PITTS CLA
SHANNON R. NONMAN

John Hall
Champaign County Zoning Board of Appeals
Brookens Center
1776 East Washington Street
Urbana, IL 61802

RE: Case 645-S-09
Robert and Barbara Gerdes

Dear Mr. Hall:

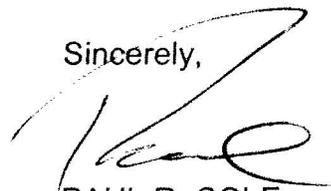
A continued hearing in the referenced matter is scheduled for December 3, 2009. I have enclosed 10 copies of correspondence recently obtained from Mr. Ty Trisler who owns and operates an air strip at the southern edge of Vance Township in Vermilion County. Attached to each copy of his correspondence is a map on which I have highlighted his air strip and the RLA proposed in the referenced case.

Much of the discussion involved in the referenced case has centered on a concern on the part of the Petitioner that recent closure of an available landing strip and the lack of a substitute landing strip have prompted the Petition. I would appreciate it if you would provide the members of the Zoning Board of Appeals a copy of the enclosed correspondence and map so that they may be advised that a substitute air strip is available for the use of the Petitioner.

Also enclosed is communication received from Mr. Andrew Larson, Superintendent of Heritage School District No. 8. This information is also provided for consideration by members of the Board.

By copy of this letter and its enclosures, I am making this information available to the Petitioner.

Sincerely,



PAUL R. COLE

PRC/tr
Enclosures
cc: Mr. Jed Gerdes

11/19/09

To whom it may concern,

We own and operate an air strip in southern Vance Township, Hamilton County. In the past, we have allowed custom applicators to use our air strip, providing that they provide proof of insurance and list us as additional insured. We will continue to provide this service for as long as the strip is in operation.

Respectfully



Ty Trisler

Trisler Farms
3746 E. 800 North.
Fairmount, IL 61841

RECEIVED

NOV 25 2009

CHAMPAIGN CO. P & Z DEPARTMENT

George B. Sylvester Trust 80	Donald G. Baird 204.02	Bonnie M. Baird 25	Mrs. William S. Duncan 25	George P. Compton 25	Frank G. Hoopner 25	Charles B. Miller 29			
John & Edna Becker 122	John & Kay Place 115	George Hecke II 300.4	Bunwack Soracco Acct 62.24	Alice Messman 162	John C. Place 116.5	George E. Hecke Jr 160			
Pauline Anderson 60.34	William J. Lump 73.17	Sandra Chestnut 80	Willard Ward 40	Alice K. Messman 77.96	William, Sr. & Marilyn Rouff 76.3	Hannah Luth 78.69	Hannah Luth 78.69	Hannah Luth 78.69	Hannah Luth 78.69
Chad Wendling 80	Alice Schumacher 80	Pauline Anderson 183.29	Edward M. Maxwell 40	Arthur A. Hamilton U.P. 38.33	William, Sr. & Marilyn Rouff 76.3	James Anderson 40	James Anderson 40	James Anderson 40	James Anderson 40
James K. Downs 160	James K. Downs 160	William E. Routh 160	Janet F. Richards 80	Eric Kibler 40	James K. Downs 160	James K. Downs 160	James K. Downs 160	James K. Downs 160	James K. Downs 160

VANCE ↑

NORTH PART SIDELL ↓ SEE PAGE 42

T.11

SEE PAGE 19

Edgar & Rose Kizer 145	Edgar & Rose Kizer 200	Elizabeth W. Heskett 160	Julia A. Happ, est. 267.83	Beck's Superior Hybrids 320	Russell K. Newlin, et al 632	Beck's Superior Hybrids, Inc 240	Bryan L. Fogerson 160.84	Barbara Buchanan 160	Lawrence R. Hatch 160
Marlyn Craver Trust 80	Kizer Farms L.P. 200	Mayo Warters 153.68	Newlin-Beck Limited Partnership 230.41	Newlin-Beck Limited Partnership 320	Newlin-Beck Limited Partnership 632	Newlin-Beck Limited Partnership 632	Sharon E. Smith-Lacquet 71.26	Carole J. Gillenwater 80.28	Joan F. Allen Trust 80
Trister Seed Farms, Inc 80	Larry R. & Judy C. Frick Trust 80	Paul W. Messman 60	Becks Superior Hybrids 293.99	Manjorie Craddock 92	Alexander Family Properties 546	Carl & Helen Burgerer 342	Francis Mc Intyre 80	Lorene A. Cress Trust 240	Norma J. Weese Trust 80
James W. Trister 80	Blue Star Farms L.L.C. 80	Paul & Susan Messman 60	Timothy Tighe 53.33	Lillian & CDMM Maxdon Trust 160	Robert & Kathryn Banla Trust 150.18	Dorothy L. Pepper 368.25	Francis Mc Intyre 80	Lorene A. Cress Trust 240	Norma J. Weese Trust 80
James W. Trister 80	Blue Star Farms L.L.C. 80	Paul & Susan Messman 60	Timothy Tighe 53.33	Lillian & CDMM Maxdon Trust 160	Robert & Kathryn Banla Trust 150.18	Dorothy L. Pepper 368.25	Francis Mc Intyre 80	Lorene A. Cress Trust 240	Norma J. Weese Trust 80

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VEGRZYN, SARVER AND ASSOCIATES, INC.

713 EDGEBROOK DRIVE, P.O. BOX 3697 CHAMPAIGN ILLINOIS 61826 • PHONE (217) 359-6603 • FAX: (217) 359-0430

David



Heritage School District #8

Preparing the citizens of the 21st century

Board of Education:
David Bosch - Pres.
Bruce Block - V Pres.
Crystal Allen
John Lannon
Shannon Patterson
Keith Rohl
Kevin Wienke

Andrew Larson, Superintendent
e-mail address: alarson@usa.net

November 24, 2009

Dear Mr. Cole,

I am writing to advocate for the Heritage School District, as well as, the communities in our school district regarding the development of the proposed wind farms that may be placed within our boundaries. I understand the importance of zoning rules and regulations but I fear that if individuals make attempts to stop these farms from being developed, the companies will move outside of our boundaries, thus giving economic development away that could have benefited our communities and school district. I truly feel that the development of this project in Southern Champaign County will put us on the map as a player in regards to cutting edge eco-friendly technology that will produce energy courtesy of our natural surroundings. I have spoken with community members in and around our school district and all conversations have been extremely positive. I hope that you can use the attached information to inform those individuals, which will make zoning decisions, of the importance of this opportunity and what it will mean to all parties involved.

We are a small rural school district of 540 students that covers approximately 105 square miles. Unfortunately we must continue to look for funding avenues outside of state funding sources because of the State of Illinois funding deficits. This would allow for additional dollars to be generated that is not directly impacting property taxes of our home and land owners. If you have questions, please do not hesitate to call.

Sincerely,

Andrew Larson, Superintendent

PO Box 260
Broadlands, Illinois 61816
(217) 834-3392 FAX: (217) 834-3016

Wind Turbine – Tax calculation

Rules

- Fair cash value per MW is \$360,000
 - Take that amount times CPI after first year.
 - Depreciation of 2-4% per each MW (maximum Depreciation 70%)
 - Divided by 33 1/3 assessed value
 - Times Aggregate Tax Rate
 - Gives you estimated real estate tax.
-

Example: First year Tax calculation

\$360,000 per 1MW equals	\$360,000 (Fair Cash Value)
divide by 33 1/3 % (assessed value)	\$120,000 per 1MW
times aggregate tax rate	4.53 (Heritage tax rate)
	\$5436 per 1MW

Sample: Second year and every year after - Tax Calculation

\$360,000 per MW times CPI; minus 4% depreciation per MW; divided by 33 1/3 Assessed Value; times Tax Rate.

	\$360,000 per 1MW
x	1.030 CPI (this is an example of the CPI)
	\$370,800
-	14,382 - 4% depreciation
	\$356,418 evaluation per 1MW
/	33 1/3 %
	\$118,794 Assessed evaluation per MW
x	4.53 Heritage tax rate
	\$5381.36 per MW

Remember, this money is put into each Fund based on the Fund Tax Rate. Most Wind Turbine towers are 1.2, 1.5 or 2 MW, so the formula will have to be adjusted. So a 1.5 MW would generate approx. \$9161 per 1.5 MW tower for Heritage School District.